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ASSEMBLY INTERIM COMMITTEE  
on  
MUNICIPAL AND COUNTY GOVERNMENT

San Diego, California  
January 14-15, 1960,

VOLUME I

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DOCUMENTS SECTION

Transcript  
of  
Proceedings,

ANNEXATION  
and  
RELATED INCORPORATION  
PROBLEMS,

Members of Committee

Clark L. Bradley, Chairman  
Don A. Allen, Sr.  
Carl A. Britschgi  
George E. Brown, Jr.  
Ernest R. Geddes  
Sheridan N. Hegland  
James L. Holmes

Bert De Lotto, Vice Chairman  
Joseph M. Kennick  
Frank Lanterman  
Eugene G. Nisbet  
George A. Willson  
Chet Wolfrum

Daniel J. Curtin, Jr.  
Committee Consultant

Cristine B. Trask  
Committee Secretary



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ASSEMBLY INTERIM COMMITTEE  
on  
MUNICIPAL AND COUNTY GOVERNMENT

Clark L. Bradley, Chairman

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Annexation and Related Incorporation Problems  
San Diego, California  
January 14, 1960

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Present:

Clark L. Bradley, Chairman	Bert De Lotto, Vice Chairman
Carl A. Britschgi	Joseph M. Kennick
Ernest R. Geddes	Eugene G. Nisbet
Sheridan N. Hegland	Chet Wolfrum
James L. Holmes	

Staff:

Daniel J. Curtin, Jr., Consultant  
Mrs. Cristine B. Trask, Secretary

TRANSCRIPT OF PROCEEDINGS

CHAIRMAN BRADLEY: The meeting will please come to order.

Ladies and gentlemen, by way of a very brief introduction, this is the Assembly Interim Committee on Municipal and County Government and we are meeting here for the purpose of conducting a two day hearing on annexation problems.

Before we have roll call, I would like to introduce to all of the members of the Committee, if they have not already met him, Assemblyman Chet Wolfrum of Los Angeles who is taking the place of Seth Johnson. Chet, we are very happy to have you here and to initiate you on our committee in your legislative career.

ASSEMBLYMAN CHET WOLFRUM: Thank you very much, Mr. Chairman.

BRADLEY: Now if the Secretary will call the roll we will ascertain if there is a quorum present, and if so we will proceed with our hearing.

(Roll call indicated that there was a quorum present.)

BRADLEY: Before we proceed, I am very pleased to add to the roll call and to introduce Assemblyman Frank Luckel of San Diego. We are glad to have you here, Captain.

The purpose of our meeting, briefly, is to review by a series of hearings the problems of annexation as they relate to municipalities and as they may affect the various counties of the State. This review follows some rather extensive hearings that were made by this committee in 1953 which resulted in the introduction of legislation in the General Session of the Legislature in 1955. This may seem a little bit soon to be going back over this information but obviously with the tremendous growth of California, particularly in such areas as San Diego County, Los Angeles County, Orange County, and other parts of the State, this is a subject of such importance that it is incumbent upon the Legislature to follow very closely the operation of these laws to ascertain if there is a need for any modifications or improvements. As you may know, the work of the Legislature in the General Session every odd numbered year is primarily concerned with amendments and improvements of existing laws, rather than putting new laws on the statute books. Therefore it is a continuous process of refinement and improvement that we are seeking, both by these interim committee hearings and by the Legislature when it is in session.

We find, as a matter of interest, that the problems of annexation seem to be of wide State interest at the present time. The Governor of this State has indicated his interest in the matter; the League of California Cities, the Supervisors' Association, and various groups ranging from the citizens in general to various types of organizations, are indicating, some in one direction and some in another, their interest in whether or not these laws should be changed, and if changed, whether they should be modified in the way of confining the action and proceedings for annexation or expanding them. The purpose of these hearings is to gather facts and information. We do not come to a decision at the conclusion of this meeting one way or the other. The hearings are transcribed and the material is made available for each individual member of the Committee and is available to a limited extent for distribution. From this hearing then, and from at least another two day hearing that will be held further north, and possibly a further two day hearing beyond that, the Committee will hope to gather all of this material together and determine what its final conclusions and recommendations will be to the Legislature.

Before I go any further, I would like to personally introduce the members of the Committee who are present, and I will start over here with Assemblyman Gene Nisbet, Assemblyman Joseph Kennick, Assemblyman Carl Britschgi, Assemblyman Bert De Lotto, the Committee Consultant, Dan Curtin, our Committee Secretary, Cris Trask, and to my right, Assemblyman Ernest Geddes, Assemblyman Sheridan Hegland from San Diego County who is well known to you, and again our new member, Assemblyman Chet Wolfrum.



I understand that our first presentation this morning will be made by representatives of Los Angeles County and that they are prepared at this time to proceed. Mr. McLaughlin?

FRANK M. McLAUGHLIN, Legislative Representative, Board of Supervisors, Los Angeles County: Mr. Chairman and members of the Committee, for the record my name is F.M. McLaughlin. I am the Legislative Representative for the Board of Supervisors. We are very grateful for this opportunity. This problem is probably greater in our county at the present time than in any other counties in the State, and with the urbanization that is taking place throughout the State, it is becoming, as the Chairman has pointed out, an increasingly greater problem in the populated counties.

At the outset we would like to make it very clear that whatever recommendations we are making as a county are not made in any effort to thwart or in any way halt the annexation or incorporation proceedings. They are being made, however, to put them into what might be termed a more orderly process and not create some of the problems that we have inherited from the past, and to attempt to set up a process that the future can live with.

To start the presentation for the County of Los Angeles, we would like to present Mr. John Lambie, our County Engineer.

JOHN LAMBIE, County Engineer, County of Los Angeles: Mr. Chairman and Members of the Committee, first I would like to introduce to you the man who will be working at the chart shown here, Mr. Flickwir. He is a cadastral engineer in Los Angeles County in charge of mapping special districts. Dick has been on this job for

over 25 years and is an invaluable man in our organization, especially for advice to persons seeking information pertaining to incorporation or annexation.

Our detailed recommendations, which are contained in the report which we have distributed to you, include drafts as I have presented to you here. The exhibits on the wall are the same as you will find in your book. If you would like to watch Mr. Flickwir as he refers to these charts, it may be easier, and then later you will have the book to refer to.

BRADLEY: I would like to make a general announcement at this time that when the witnesses come up here to make their presentations to the Committee, we would appreciate it if they would state their name and address so that we may have it clearly and correctly spelled for our records.

LAMBIE: Our detailed recommendations, including drafts of proposed bills, sketches and explanations, have been submitted to the Committee. Each of you now has a copy. Further, we have large scaled illustrations on the board here which are also contained on a smaller scale in your report. To expedite our presentation, and in order not to repeat the details of the report now, we will explain each item of the report by using these illustrations on the board. In general, each of them represents an actual boundary problem encountered in our County. These are actual illustrations. I have left the names of cities off because we do not wish to criticize any city for its action; we have listed them merely as City A and B, and north may be at the bottom, side or top, etc., so that it will be as impersonal as possible.



(The text of Los Angeles County's report is incorporated section by section into the transcript as it applies. However, the map illustrations are not included but are on file in the Committee's office in Sacramento.)

Section: I

Subject: City Annexations - Prohibition against overlapping proposals, etc.

Reference: Government Code Section 35002.

Recommendation: That the above section of the Government Code be amended to (1) require the filing with the boundary commission to include a map and full legal description of boundaries of a proposed annexation, (2) provide a protective period for the annexation proposal by prohibiting the filing of overlapping proposals for annexation or incorporation for 90 days, and (3) prohibit the filing of more than one such annexation proposal in a period of one year.

Bill Draft: An Act to amend Section 35002 of the Government Code relating to annexation of territory to cities.

Section 1. Section 35002 of the Government Code is amended to read:

35002. No petition seeking the annexation of territory to a city shall be circulated or filed, nor shall any public officer accept any such petition for filing, nor shall any legislative body initiate proceedings to annex on its own motion until a ~~written description~~ description of the proposal for the annexation of territory to a city, including a map and specific detailed legal description of the boundaries of the territory, has been filed with the secretary of the boundary commission of the county and the boundary commission has prepared, or caused to be prepared, a report to the proponents upon the annexation proposal with respect to the definiteness and certainty of the proposed boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory and other similar matters affecting the proposed boundaries.

At the time of filing the proposal for the annexation with the boundary commission, the proponents shall file with the county clerk or registrar of voters, if such latter office has been established, a map of the proposal area.

If at the hearing set by the legislative body of the city the boundaries of the proposal area are changed by such body, the proponents shall within 10 days after the final date set by law for the boundary commission to report its findings on such changes, furnish the county clerk or registrar of voters a revised map showing such changes.

Notice of receipt of a proposal for the annexation of territory to any city shall be given within 10 days after the filing thereof by the clerk of the boundary commission to the legislative bodies of all cities the territorial limits of which lie within three miles of any of the territory proposed to be annexed. Such notice shall be given by mail addressed to the legislative bodies of the cities entitled thereto and shall in general terms indicate the area proposed to be annexed. Failure to give such notice shall not operate to invalidate an annexation proceeding.

If the boundary commission does not report upon the annexation proposal within 20 days after the written description thereof is filed with the secretary of the boundary commission, the annexation proposal shall be deemed correct.

If an annexation proceeding is initiated pursuant to the Annexation Act of 1913, the written description of the proposal for the annexation of territory shall be filed with the secretary of the boundary commission after Section 35106 has been complied with and before the petition for annexation is circulated.

For a period of 90 days after the filing with the secretary of the boundary commission of a proposal for the annexation of territory to a city no other proposal shall be filed hereunder for the annexation of any of the same territory to any city, or for the incorporation of any of such territory.

Not more than one such proposal for annexation to any one city affecting the same or substantially the same area shall be filed within a period of one year.

Explanation:

The requirement for a map and detailed legal description makes for logical uniformity with existing procedure on incorporations.

The prohibition against filing overlapping annexation or incorporation proposals provides the same protection for a proposed annexation as we have recommended (Item VII) for proposed incorporations. The limitation on annexation proposals covering the same area to 1 per year is similar to our recommended amendment of the

provision in Government Code Section 34302.5 limiting incorporations. Also, this appears to be necessary to prevent a city or a group of proponents from holding priority over territory by repeated filings of annexation proposals following the expiration of each successive 90 day period.

In this case we are asking for proposed legislation recommended by Los Angeles County to improve the city annexation and incorporation laws for prohibition against overlapping annexation proposals. As illustrated, City B filed with the Boundary Commission a proposal for its uninhabited territory, Annexation No. 1, as Mr. Flickwir is outlining. About a week later, City A filed a proposal for its Uninhabited Territory Annexation No. 1. Having arrived at the hearing stage first, City A was forced by protests of property owners to abandon its first annexation and it immediately filed a proposal for a large inhabited territory annexation. The two cities are still competing and possibly court action will be required to settle this dispute. We recommend that for a period of ninety days after a city files an annexation proposal with the boundary commission no other proposal shall be filed for annexation or incorporation of any of the same territory. Further, we recommend that not more than one such proposal for annexation to any one city affecting the same, or substantially the same, area shall be filed within the same year.

BRADLEY: Mr. Lambie, just one minute. I think that as we go along it would be well, if there are any questions by members of the Committee that are pertinent to the particular section being discussed, that we should ask the questions now.

McLAUGHLIN: Mr. Chairman, may I interrupt you just a second? I have inadvertently neglected to mention that if you are going to

question as we go along, we also have with us this morning Mr. Gordon Nesvig who is the Clerk of the Board of Supervisors and the Secretary of the Boundary Commission, and Mr. Arthur Will, the City-County Coordinator, who also are conversant with the problem and will be available for any questions you might want to ask.

BRADLEY: Thank you.

HEGLAND: My question is just one of clarification. Is it your thought that once the Boundary Commission receives an application that a certain area be annexed, and that then the people in that area may not take any move toward incorporation before the ninety days have elapsed, or are you thinking only about a rival annexation?

LAMBIE: We are talking in this particular case about annexations only. Later on I will cover some topics regarding incorporations.

HEGLAND: In other words then, in accordance with the recommendation that an annexation is suggested and is applied for would prohibit the people in that area from moving toward incorporation, is that correct?

LAMBIE: Do you want to take that one, Gordon?

GORDON NESVIG: Clerk, Board of Supervisors, Los Angeles County: I am Gordon Nesvig, Clerk of the Board of Supervisors in Los Angeles County. Actually what you are saying, Mr. Hegland, is correct. This would prohibit an incorporation move or annexation move for any particular territory and there are reasons which we can go into later on if you wish.

BRADLEY: You may proceed, Mr. Lambie.



Section: II

Subject: City Annexations - Regulation on shape

Reference: Government Code Section 35002.5

Recommendation: That the above section of the Government Code be amended to require at least one-sixth of the boundary of an annexation of one acre or more to coincide with the existing boundary of the city.

Bill Draft: An act to amend Section 35002.5 of the Government Code, relating to annexation of territory to cities.

Section 1. Section 35002.5 of the Government Code is amended to read:

35002.5. Territory shall not be deemed contiguous as the word contiguous is used in this chapter (1) if the only contiguity is based on a strip of land over 300 feet long and less than 200 feet wide, such width to be exclusive of highways; or (2) if less than one-sixth of the total length of boundary of any territory having an area of one acre or more coincides with the boundary of the annexing city or with the boundary of separating territory of another city referred to elsewhere in this section, such length to be inclusive of highways.

Territory shall be deemed contiguous as the word contiguous is used in this chapter if the area thereof is separated by territory within the boundaries of another city or if such area is separated from the boundaries of another city; provided, such separating territory became within the boundaries of the other city prior to January 1, 1925; and further provided, such separating territory is not in excess of 200 feet in width at all its separating points; and providing, that said separating territory within said separating points is uninhabited as defined in Section 35303 of the Government Code.

Explanation: This further regulation of the shape of annexations would be a step toward more compact and reasonable city boundaries. It would supplement but not replace the 200 foot by 300 foot regulation in this section. An annexation would be required to satisfy both conditions.

The one-sixth rule has not been applied to an annexation with an area less than one acre because it does not seem reasonable to impose the restriction on an extremely small annexation.

The one to six ratio was taken from the Colorado law (Colorado Revised Stats. 1953, Chap. 139, Art 11, Section 2 as reported in an article "Research Aspects of an Annexation Study" by Maxine Kurtz in the Journal of the American Institute of Planners - 1957/2, p. 59). This might be too rigid a restriction to stand much chance of being enacted in California. However, depending on what may be considered advisable, it could be used as a starting point and be modified to as high as one to ten and still be an improvement over present regulations.

Further, we suggest that the final decision in the pending litigation (Morris A. Hooper vs City of Hawthorne, S.C.C. No. 727722), involving interpretation of the 200 foot by 300 foot regulation, be studied when available with a view toward possible amendment of Sec. 35002.5 to clarify this regulation. Two possible alternates would be (1) to only prohibit such strips which are less than 200 feet wide throughout the entire 300 foot length, or (2) to prohibit strips which are less than 200 feet wide at any one or more points in the 300 foot length.

LAMBIE: This is a regulation on the shape of the annexation illustrated here on three separate annexations, each of which is a relatively small portion of its boundary touching the existing city boundary. Looking to Colorado law for precedent, our recommendation would prohibit an annexation if less than one-sixth of the total length of its boundary coincides with the existing city boundary. Annexations with an area less than one acre have been excepted because it doesn't seem reasonable to propose a regulation on this very small annexation. If the one to six ratio seems too rigid, it could be changed to one to ten. Referring to the illustration in Example A, 16.8 percent of the annexation territory is common with the city boundary, permissible under both the 1/6 or 1/10 rule. In Example B, 10.5 percent of the annexation boundary coincides with the city boundary; this is a violation of the 1/6 rule but permissible



under the 1/10 rule. That's 38 acres in that parcel. In Example C, only two percent of the annexation boundary touches the city boundary. This is a violation under both the 1/6 and 1/10 rules. Also, you will notice there that there is no access from the existing city into the area to be annexed for the use of city vehicles, fire departments, or the use of other necessary city services. You must leave the city in order to get back into it again. Are there any questions regarding this?

ASSEMBLYMAN GEDDES: May I ask a question, please? With reference to Example C concerning the white space there, is that left out in this particular instance because that is already the incorporated area of another city or is that an unincorporated area?

LAMBIE: It is all unincorporated.

GEDDES: So that, to comply with the rule, just for the purpose of this question, the right hand top boundary might be extended to meet the existing city boundary?

LAMBIE: That's right.

GEDDES: Thank you.

BRADLEY: Mr. Lambie, may I interrupt you again for just one minute? We now have Assemblyman James Holmes from Santa Barbara with us. We are glad you have joined us, Jim.

HOLMES: Thank you, Clark.

LAMBIE: The third section deals with the prohibition against annexing shoestring strips of street.

Item: III

Subject: City Annexations - Prohibition against street shoestring strips.

Reference: Government Code Sections 35003, 35105.5 and 35304.5.

Recommendation: That the above sections of the Government Code relating to annexations involving shoestring strips of street be repealed.

Bill Draft: An Act to repeal Sections 35003, 35105.5 and 35304.5 of the Government Code, relating to annexation of territory to cities.

Section 1. Sections 35003, 35105.5 and 35304.5 of the Government Code are hereby repealed.

Explanation: Section 35003 permits the annexation of territory owned by a public agency through a connecting street strip of unlimited length. We believe that in general any need for this section probably would be removed by our recommendation (Item IV attached) to exempt from taxation city owned property outside the city.

Sections 35105.5 and 35304.5 were amended in 1955 to limit to one-half mile the length of street shoestring strips for inhabited and uninhabited territory annexations. While this is better than no limitation at all on length, we are of the opinion that all such street strips should be prohibited. We believe that cities should expand as compact areas can be annexed, but that they should not be permitted to reach out through long street strips to annex territory.

LAMBIE continues: Here City A extends its boundaries to reach private property to be annexed under Annexation No.1; then repeated the process for Annexation No. 2. Cities may now annex publically-owned property through a connecting street strip of unlimited length. We recommend the repeal of the section which permits this because our later recommendation (No. IV) would remove the need for such annexation by tax exemptions. The 1955 amendment imposed a limit of one-half mile on the length of such street shoestring strips for

inhabited and uninhabited territory annexations, but we recommend that all such street strips be prohibited because of the problems created, particularly by the owners of property which remain in county territory while fronting on a city street. Are there any questions regarding Section III?

BRADLEY: Now, Mr. Lambie, may I ask a question? That would be regardless of the width of the strip which is proposed to be annexed, and also regardless of whether it is an inhabited annexation proceeding?

LAMBIE: Yes.

BRADLEY: Or uninhabited?

LAMBIE: Yes. This particular thing is irregardless. The fact of going down a street including the street only, and the fact that the houses fronting on that city street may require services the city cannot provide, nor the county can provide, presents a very difficult problem in providing the necessary services to the private property left in the unincorporated area on each side of the street.

BRADLEY: Am I correct in recalling to mind that in the recent amendment to the law it did require a minimum width in addition to the street? Isn't that correct?

LAMBIE: That is excepting the street. That is 200 feet wide and 300 feet long excepting the street, but they still can use the street itself. For instance, you could not tie across the top by the same narrow strip, across vacant land, but you could go along the bottom.

BRADLEY: I think that this is a particular illustration that the Committee would be interested in, and any ideas or statements

would be appreciated which would amplify in particular detail the reasons why you feel this should be discontinued; in other words, what are the problems that have come up from the experience of Los Angeles County which make you feel that this type of annexation should be discontinued?

LAMBIE: We in the County Engineer's Office had a similar annexation to this but not this particular one. We received complaints from people who front on this street that the street was not being maintained properly; they complained to the County because their homes were located in the County - but the street is in the city. The City wanted them to annex to them. This fits into a sort of local hassle and there is nothing the County can do about the maintenance of the street or the provision of services, the street sweeping and other things that are necessary for the street. There is nothing we can do; it's a city street. This, Mr. Bradley, gets into a situation where it just keeps going around and encircles quite an island; the people find themselves completely encircled by a city that they may not choose to become a part of.

GEDDES: Mr. Chairman.

BRADLEY. Yes, Mr. Geddes.

GEDDES: Do I understand from your explanation, as you have given it through the presentation that is before us, that this annexed area No. 1, and possibly annexed area No. 2, were annexed, or proposed to be annexed, because they contained some city facilities and in order that they could be brought into the city, being noncontiguous, this strip has been incorporated really for the difficulties that you have pointed out, and also do I understand that you further propose that



this territory, Annexations No. 1 and No. 2, be free from tax which would obviate the necessity in some instances for the city to put in that corridor or strip?

LAMBIE: If it is city-owned property, the exemption from tax would correct it, but if it is uninhabited territory under private ownership, it is stripped off as uninhabited territory...

GEDDES: That's right. Then it would come under our other view of annexations, and certainly we know the evils that have resulted from that kind of strip annexation.

BRADLEY: Are there any other questions.  
LAMBIE presents:

Item: IV

Subject: City Annexations - Tax exemption for non-contiguous city-owned lands, prohibition against their annexation.

Reference: Constitution of California, Article XIII, Section 1, Government Code Section 35201.5.

Recommendation: (a) That Section 1, Article XIII of the Constitution of California be amended to exempt from taxation lands, not exceeding 100 acres in area, and improvements thereon located outside a city, but in the same county as that in which the city is situated, owned by the city and used for a municipal purpose; and (b) that Section 35201.5 of the Government Code permitting a city to annex such non-contiguous city-owned territory be repealed.

Bill Draft: (a) Reference is made to A.C.A. No. 27, introduced in 1959, the essential part of which reads:

Sec. 1d. Notwithstanding Section 1 of this article, non-contiguous lands used for municipal purposes not exceeding 100 acres in area, together with all improvements thereon, of a city located outside the boundaries of such city, and lying in the same county as such city is located, shall be exempt from taxation.

(b) An act to repeal Sec. 35201.5 of the Government Code, relating to annexation of non-contiguous, city owned lands to cities.

Section 1. Section 35201.5 of the Government Code is hereby repealed.

Explanation: This recommendation involves a simple and direct tax exemption for such lands owned by a city outside its boundaries (the Constitutional amendment), and the repeal of the Government Code Sec. 35201.5 which was added to the code in 1955 primarily to provide for this same tax exemption indirectly through annexation of these non-contiguous lands.

While all attempts so far to annex non-contiguous city-owned lands in Los Angeles County have been abandoned, the threat is always there so long as Section 35201.5 remains in the code.

The most objectionable features of the non-contiguous annexations now allowed are that:

- (1) The cities could zone and use these outlying parcels for purposes obnoxious and detrimental to nearby residents. This could ruin any well organized county zoning plan.
- (2) Serious problems would arise for the city and the county departments in regard to policing and serving the non-contiguous areas. These "islands" of city territory within county areas would create the same service and related problems as do the small "islands" of county territory surrounded by cities.
- (3) When a city sells all or part of the non-contiguous territory, or abandons the use for municipal purposes, the territory ceases to be a part of the city. With no requirement for cities to notify counties of such changes in ownership and use, the counties would find it extremely difficult to maintain up-to-date legal boundaries of cities for assessment and general purposes.

LAMBIE continues: In illustration #1, City A proposed to annex land it owned which was not contiguous to its boundaries and which was located on the opposite side of adjoining City B. In Graph #2, City A proposed to annex land it owned which was not contiguous, that is, eight parcels of non-contiguous city-owned land. Apparently the main purpose of such proposed annexations is relief from taxation.



Therefore, we recommend that the State Constitution be amended to exempt from taxation lands not exceeding 100 acres in area, and improvements thereon located, outside of the city but in the same county, owned by the city and used for municipal purposes. This was introduced as Assembly Constitutional Amendment No. 27 in 1959. Further, we recommend that the section of the code permitting a city to annex such noncontiguous city-owned lands be repealed. The objectional features of such noncontiguous annexation includes problems relating to zoning, policing and service, covered in some detail in the report that you have there. These could be dump sites; they could be city-owned property that may have a reservoir on it. If they decide to build on it or lease it out in a residential neighborhood of the county, where the county is surrounding it, it causes considerable alarm, especially in the case of the illustration where City A attempted to annex this portion completely on the other side of City B.

BRADLEY: May I ask a question, Mr. Lambie? When you speak about a limitation of 100 acres, are you talking about a total or would the limitation be just 100 acres for each particular parcel?

LAMBIE: For each one.

BRADLEY: So that you might have several parcels of 99 acres rather than a total of 99 as this particular drawing here shows.

LAMBIE: Did you say total? You think that all of them should not total more than 99? Will you explain this, Dick?

FLICKWIR: I believe the existing law is that the maximum is 100 acres.

BRADLEY: I see.

HEGLAND: The examples you give, sir, are in one category,

but isn't it also true that if this Constitutional Amendment were actually passed that one of these parcels could be a very expensive and valuable steam plant owned, for example, by the Los Angeles Bureau of Water and Power?

LAMBIE: Yes.

BRADLEY: Mr. Curtin has a question.

CURTIN: It is my understanding that this Sec. 35201.5 of the Code was amended in 1959 again so that no such territory may be annexed if one or more registered voters reside in that territory at the time the area is proposed for annexation and also it was amended to provide that if after the annexation is completed one or more registered voters reside thereon, such territorial part thereof ceases to be a part of the city. I would like to comment that this situation perhaps presents a situation where removing a registered voter on to a parcel of city property not contiguous to the city would result in the exclusion of the territory to the city, and so it's an understatement to say that this is a rather novel method of effecting exclusion and alteration of a city's boundary.

McLAUGHLIN: A sneaky method, I would say, Mr. Curtin. However, I think most of these parcels that Mr. Lambie is referring to, types which contain a reservoir, steam plants, and the like, are such where it would almost be impossible even if you would want to use the sneaky approach to move a registered voter and prevent the annexation. My feeling is if we are going to clean the law, let's clean it up in a fashion that is a little more compatible with an ethical approach.

CURTIN: Thank you.

LAMBIE presents:

Item V

Subject: City Annexations-Prohibition against islands and corridors of county territory.

Reference: Government Code Sections 35002.3, 35158, 35326 and 35450.

Recommendation: That, in the Government Code, Section 35002.3 and 35450 be amended, and Sections 35158 and 35326 be repealed to prohibit city annexations in general which would create:

(a) Islands of county territory, less than one square mile in area, between the annexing city and any other city or cities.

(b) Corridors of county territory more than 300 ft. long and less than 200 feet wide, the width exclusive of highways.

Bill Draft: An act to amend Section 35002.3 and 35450 of, and to repeal Sections 35158 and 35326 of the Government Code, relating to the annexation of territory to cities.

Section 1. Section 35002.3 of the Government Code is amended to read:

35002.3. Territory shall not be annexed to a city if as a result of such annexation (1) unincorporated territory is completely surrounded by the annexing city; (2) unincorporated territory less than one square mile in area is completely surrounded by the annexing city and any other adjacent city or cities. (3) a strip of unincorporated territory less than 200 feet wide and more than 300 feet long and less than 200 feet wide, such width to be exclusive of highways, is created; or (3) (4) a strip of unincorporated territory consisting solely of a highway or portion thereof is created; or (5) public access to the annexing city does not exist within such annexation or annexing city from any territory within such annexation.

This section shall apply only to annexation proceedings commenced or instituted after the effective date of this act.

Section 2. Section 35450 of the Government Code is amended to read:

35450. The board of supervisors may effect the annexation to any adjacent city or cities of unincorporated territory consisting solely of a highway or highways, or portions thereof, bounded on both sides by city boundaries, pursuant to the provisions of this article ~~if the annexation of such highway or highways will not result in the creation of an island of unincorporated territory completely surrounded by incorporated territory.~~

Section 3. Section 35158 is hereby repealed.

Section 4. Section 35326 is hereby repealed.

Explanation:

In general, these recommendations were included in AB 484 as amended April 6, 1959, but they were deleted from the bill enacted as Chapter 1449.

The recommended one square mile minimum on the size of county islands which could be created between cities was arbitrarily selected. We believe that it is probably not feasible to completely prohibit large islands between cities and that possibly one square mile is a reasonable minimum area.

This amendment would strike from Section 35450 the full prohibition against creating any county islands resulting from highway corridor annexations. Then our proposed restrictions on annexations in general as to the creation of county islands would apply.

In regard to the prohibition against the creation of corridors of unincorporated territory more than 300 ft. long and less than 200 ft. wide, we have added the provision "such width to be exclusive of highways" to conform with the similar provision in Sec. 35002.5 with respect to strips of land included in an annexation to establish contiguity to the city. Further, we suggest that the final decision in the pending litigation (Morris A. Hooper vs. City of Hawthorne, S.C.C. No. 727722), involving interpretation of the 200 foot by 300 foot regulation on strips which provide contiguity (Sec. 35002.5), be studied when available with a view toward possible amendment of Sec. 35002.3 to clarify this regulation on strips or corridors of unincorporated territory.

Sections 35158 and 35326, recommended for repeal, now prohibit the creation of any islands within annexing cities in connection with inhabited and uninhabited territory annexations. These sections are now unnecessary because the 1959 amendment of Section 35002.3 broadens this prohibition to apply to all types of annexations. This is similar to Item IX for incorporations.



LAMBIE continues: In Illustration 1 City B annexed the area colored solidly in orange. This created an island of county territory with an approximate area of .28 square miles between City A and City B. We recommend a prohibition against annexations which result in a creation of islands of incorporated area less than one square mile in area between two cities. The square mile was selected as a probable minimum area which it would be feasible for a county to efficiently serve, that is, serve that particular area. It also, from the planning viewpoint, represents a possible unit of about 13,000 people, according to the figures in a square mile in Maywood, which, if they wished to incorporate at a later time they could do so.

BRADLEY: Mr. Lambie, this island in the illustration here, how long ago was that created, do you know? Was it recently?

FLICKWIR: I would have to make an estimate. It would be within the last two or three years.

BRADLEY: As I see your chart, there is no outlet there at all, is there?

FLICKWIR: No, sir.

BRADLEY: Not even a street or island?

FLICKWIR: There had been an outlet, Mr. Bradley, through the street but that was closed.

BRADLEY: The area that is marked "Proposed Annex to City B", was that completed?

FLICKWIR: That has been accomplished.

BRADLEY: Mr. Britschgi has a question.

BRITSCHGI: Why did City B take in the street and not City A? Which one was there first?

LAMBIE: City A was there and you see the island was larger before City B proposed that smaller annexation inside which closed it off. That is the annexation that created the island. City B was the one which created the island and the highway is important, of course, not only for vehicular access but in many cases that is the only avenue for sewers, storm drains, and facilities that would serve that unincorporated area. Now they are cut off from any such service.

BRITSCHGI: I was looking at it from the other standpoint.

LAMBIE: In Illustration No. 2 in this particular case, City B annexed territory outlined in blue and created a corridor of unincorporated territory 145 feet wide, exclusive of the street and 1800 feet long. This is the type of corridor that would be prohibited under annexation proceedings to be annexed. It would be limited to 200 feet in width and 300 feet long, but by jumping it such as this, you can create this same corridor that we tried to prevent. This corridor with a gross width of 205 feet, including the street, is permissible under existing law. However, we recommend that the present prohibition against such strips in unincorporated areas more than 300 feet long and less than 200 feet wide be broadened to provide that the width shall be exclusive of highways. This would make the regulation conform to the present similar provision of the Code in regard to annexation strips that establish contiguity with the city. Our previous illustration (2c) shows that there is no street within the annexation connecting it with the city. Service from the city to the annexation is possible only by using streets outside the city. We are recommending the requirement that the annexation must include



within its boundaries public access to the city.

Item: VI

Subject: City Incorporations, Annexations, and Exclusions -  
Uniform effective date.

Reference: Government Code Sections 34080, 34328, 35124, 35145.1,  
35146, 35209, 35209.1, 35210, 35306, 35317.1, 35318,  
35457, 35458, 35508.1, 35509, 35561.1, 35562, 35562.1  
and 35563.

Recommendation: That the above sections of the Government Code be  
amended or added to uniformly provide that the effective  
date of a city incorporation, a city annexation,  
or an exclusion from a city, be the date when the  
affidavit of completion is filed with the county  
recorder.

Bill Draft: An act to amend Sections 34080, 34328, 35124, 35146,  
35209, 35210, 35306, 35318, 35457, 35458, 35509,  
35561.1, 35562, and 35563 of, and to add Sections  
35145.1, 35209.1, 35317.1, 35508.1 and 35562.1 to  
the Government Code, relating to cities.

Section 1. Section 34080 of the Government Code is  
amended to read:

34080. The clerk of the legislative body conducting  
the proceeding shall file with the recorder of the  
county in which the city is located an affidavit  
stating that all requirements of law pertaining to  
the proceeding have been complied with, if it relates  
to:

- (a) Incorporation of territory as a city.
- (b) Consolidation of cities.
- (c) Change of name of a city.
- (d) Disincorporation of a city.
- (e) Annexation of territory to, or exclusion of  
territory from, a city.
- (f) The boundaries of any city.

The city shall not perform any official act, the  
validity of which depends upon such proceedings,  
until the affidavit of completion has been filed.

If the proceeding is a proceeding for the incorpora-  
tion of territory as a city or the annexation of  
territory to a city the territory shall, ~~except as~~  
~~expressly provided in Sections 35146 and 35318~~, be

deemed to be unincorporated territory until the affidavit required by this section is filed ~~by the city clerk~~ in the office of the county recorder. If the proceeding is a proceeding for the exclusion of territory from a city the territory shall be deemed to be incorporated territory until the affidavit required by this section is filed in the office of the county recorder.

Section 2. Section 34328 of the Government Code is amended to read:

34328. After the date ~~of filing~~ the affidavit of completion is filed in the office of the county recorder, the incorporation is complete, and, upon qualifying, the officers shall enter upon the duties of their offices. Immediately following its organization, the city council shall cause to be filed the statement of boundary creation required by Section 54900 of this code.

Section 3. Section 35124 of the Government Code is amended to read:

35124. The notice shall:

- (a) State the date of the election.
- (b) State distinctly the proposition to be submitted.
- (c) Describe specifically the boundaries of the territory proposed to be annexed.
- (d) Designate the name by which the territory may be indicated upon the election ballots, which shall be that given it in the resolution of intention to call a special election.
- (e) Instruct the electors how to vote in the election.

~~The notice may set a date when, pursuant to Section 35146, the annexation will become effective if the annexation is completed.~~

Section 4. Section 35145.1 is added to the Government Code to read:

35145.1. Immediately upon receipt of the Secretary of State's certificate, the clerk of the city legislative body shall file with the county recorder the affidavit of completion required by Section 34080 of this code.

Section 5. Section 35146 of the Government Code is amended to read:

35146. From the date of filing by the Secretary of State the affidavit of completion is filed in the office of the county recorder, the annexation proceedings are complete and the territory is a part of the city for all purposes.

The annexed territory is a part of the city from the date fixed by the legislative body in the notice described in Section 35124, but not later than one year after the date of filing by the Secretary of State or the due date of property taxes levied by the city in the territory, whichever occurs first, except that for the purpose of compliance with Sections 34080 and 54900 of this code, and any action required for the assessment and levy of property taxes, the territory shall be deemed a part of the city from the date of filing by the Secretary of State. -- If no date is fixed by the legislative body in the resolution described in Section 35124, the territory is a part of the city for all purposes from the date of filing by the Secretary of State.

Section 6. Section 35209 of the Government Code is amended to read:

35209. The documents shall be filed by Immediately upon receipt of the document, the Secretary of State and shall file it, and transmit a certificate of the filing to the clerk of the legislative body of the city, and to the clerk of the board of supervisors.

Section 7. Section 35209.1 is added to the Government Code to read:

35209.1. Immediately upon receipt of the Secretary of State's certificate, the clerk of the board of supervisors shall file with the county recorder the affidavit of completion required by Section 34080 of this code.

Section 8. Section 35210 of the Government Code is amended to read:

35210. From the date of filing the document by the Secretary of State the affidavit of completion is filed in the office of the county recorder, the annexation is complete, and the annexed territory is a part of the city for all purposes.

Section 9. Section 35306 of the Government Code is amended to read:

35306. The resolution shall describe the boundaries of the territory specifically, designate it by an appropriate name, and contain a notice of the time and place the legislative body will hear protests made by any person owning real property within the territory.

~~In the resolution the legislative body may set a date when, pursuant to Section 35318, the annexation will become effective if such annexation is completed.~~

Section 10. Section 35317.1 is added to the Government Code, to read:

35317.1. Immediately upon receipt of the Secretary of State's certificate, the clerk of the city legislative body shall file with the county recorder the affidavit of completion required by Section 34080 of this code.

Section 11. Section 35318 of the Government Code is amended to read:

35318. From the date ~~of filing by the Secretary of State~~ the affidavit of completion is filed in the office of the county recorder, the annexation proceedings are complete and the territory is a part of the city for all purposes. ~~The annexed territory is a part of the city from the date fixed by the legislative body in the resolution described in Section 35306, but not later than one year after the date of filing by the Secretary of State or the due date of property taxes levied by the city in the territory, whichever occurs first, except that for the purpose of compliance with Sections 34080 and 54900 of this code, and any action required for the assessment and levy of property taxes, the territory shall be deemed part of the city from the date of filing by the Secretary of State. If no date is fixed by the legislative body in the resolution described in Section 35306 the territory is a part of the city for all purposes from the date of filing by the Secretary of State.~~

Section 12. Section 35457 of the Government Code is amended to read:

35457. The documents shall be filed by the Secretary of State and immediately he shall transmit certificates of the filing to the clerk or clerks of the legislative body or bodies of the annexing city or cities and to the clerk of the board of supervisors



~~from the date of filing thereof the annexation is complete and the annexed territory or territories are a part of the annexing city or cities for all purposes.~~

Section 13. Section 35458 of the Government Code is amended to read:

35458. The clerk of the board of supervisors shall file the affidavit of completion and the statement of boundary change required by Chapter 8, Part 1, Division 2, Title 5, of this code. From the date the affidavit of completion is filed in the office of the county recorder, the annexation is complete and the annexed territory is a part of the annexing city or cities for all purposes.

Section 14. Section 35508.1 is added to the Government Code, to read:

35508.1. Immediately upon receipt of the Secretary of State's certificate, the clerk of the city's legislative body shall file with the county recorder the affidavit of completion required by Section 34080 of this code.

Section 15. Section 35509 of the Government Code is amended to read:

35509. From the date of filing the abstract the affidavit of completion is filed in the office of the county recorder, exclusion of the territory from the city is complete, and it ceases to be a part of the city.

Section 16. Section 35561.1 of the Government Code is amended to read:

35561.1. In the case of territory which has been annexed by the city without the filing of a petition or request therefor signed by the owners of property within the territory annexed, but under proceedings initiated by the legislative body of the city on its own motion, and in which no notice of such proceedings was given to said property owners except constructive notice by publication or by posting, all of the territory so annexed shall be excluded from said city if, within two years after such annexation shall have been completed, a petition for such exclusion shall be filed with the city clerk, addressed to the legislative body of said city, signed by the owners of property within said territory owning not less than

75 percent of the land in the territory by area and by assessed value, as shown on the last equalized assessment roll of the county in which the territory is situated.

Upon the filing of such petition with the city clerk, the legislative body of said city shall, at its next regular meeting or at any earlier meeting duly called for that purpose, examine said petition and, if it finds the same to be in compliance with this section, shall by ordinance exclude from said city all of the territory therein described which had been so annexed. In such case no election need or shall be called or held for the purpose of the exclusion of such territory. The clerk of the legislative body shall within 10 days after the passage of said ordinance, file with the Secretary of State and the board of supervisors a certified copy of said ordinance in the same manner as herein provided for the filing of a copy of a report and statement of election held under other provisions of this article, and ~~upon such filing such exclusion shall be complete and the territory affected no longer a part of said city~~ shall file with the county recorder the affidavit of completion required by Section 34080 of this code. From the date the affidavit of completion is filed in the office of the county recorder, the exclusion is complete and the territory affected is no longer a part of said city. If the city, prior to such exclusion, has incurred any expense for the construction or installation of any facilities or improvements on the property so excluded or for the furnishing of any service thereto, each owner of said property shall reimburse the city the full amount of such expense fairly attributable to his property, together with interest thereon at the rate of six (6) percent per annum from the date of the payment of such expense by the city. All amounts due on account of such reimbursement shall be a lien on the property affected, enforceable in the same manner as liens for city taxes. Said property shall also remain liable for its proportion of debts contracted by the city prior to such exclusion as provided by Section 35564 of this code.

The provisions of this section shall not apply to annexation proceedings heretofore approved by a final decision of a court of record in this State.

Section 17. Section 35562 of the Government Code is amended to read:

35562. The Secretary of State and the clerk of the board of supervisors shall file the report. The

Secretary of State immediately shall transmit a certificate of the filing to the clerk of the city legislative body and to the clerk of the board of supervisors.

Section 18. Section 35562.1 is added to the Government Code, to read:

35562.1. Immediately upon receipt of the Secretary of State's certificate, the clerk of the city legislative body shall file with the county recorder the affidavit of completion required by Section 34080 of this code.

Section 19. Section 35563 of the Government Code is amended to read:

35563. From the date ~~of filing by the Secretary of State~~ the affidavit of completion is filed in the office of the county recorder, exclusion of the territory is complete and it ceases to be a part of the city.

Explanation:

The Government Code is so confusing as to the effective dates of incorporations, annexations and exclusions that, in Los Angeles County, we are guided in this regard by County Counsel opinion.

This amendment making all city incorporations, annexations or exclusions uniformly effective when the affidavit of completion is filed with the county recorder, is necessary to clarify an extremely complicated situation.

The elimination of the delayed effective date provisions (Sections 35146 and 35318), in our opinion, is justified because no city in this county has ever made use of them. This appears to indicate that the anticipated need for these provisions did not materialize. We believe the provisions should be stricken to prevent the complications which would result if cities decided to use them.

Further, according to County Counsel opinion, under existing laws, when territory (inhabited or uninhabited) is annexed, the county loses jurisdiction on the date of filing with the Secretary of State, but the city cannot perform official acts in the territory until the affidavit of completion is filed with the county recorder. The amendment eliminates this interim period when neither county nor city has jurisdiction and serious service problems could arise. In Los Angeles County this period between filings recently has varied from 1 to 110 days with an average of about 20 days.



LAMBIE continues: Recommendation VI in our report would make the date of filing with the County Recorder uniformly the effective date of all incorporations, annexations and exclusions. This obviously does not call for an illustration. This would eliminate existing confusion and lack of uniformity regarding the manner of the effective dates. Also, it would eliminate the interim period between dates when the proceedings are filed with the Secretary of State and later with the County Recorder. Our experience in the past year indicates that this period when neither county or city has jurisdiction of the area varies from 1 to 120 days with the average being 20 days. It's a question of whether the city police facilities or the sheriff's facilities serve the area, and whether it is the city or county building inspector who has jurisdiction, or who takes care of the sewers, the street, the water system, and various things. It is an in-between time and if you press for counsel's opinion, each will tell you to stay out; but we attempted to try and do the best to hold things in status quo until they get it recorded. It presents a very difficult situation. Any questions regarding that one? There is no exhibit on that.

Item: VII

Subject: City Incorporations - Concurrent filings, alteration of proposed boundaries, protection against overlapping proposals, etc.

Reference: Government Code Sections 34302.5, 34302.6, 34303.5 and 34311.

Recommendation: That the above sections of the Government Code be amended to provide for (1) concurrent filing of an incorporation proposal with the boundary commission and notice of intention to circulate petition for incorporation with the board of supervisors, etc.; (2) restricting notices of intention from two to one per year, (3) filing the boundary commission report with the board of supervisors, (4) alteration of



boundaries on recommendation of boundary commission or board of supervisors, (5) clarification of the period of protection against overlapping proposals, and (6) extending from one year to two years the waiting period after proceedings are abandoned upon 51 percent protest.

Bill Draft:

An act to amend Sections 34302.5, 34302.6, 34303.5 and 34311 of the Government Code, relating to the incorporation of new cities.

Section 1. Section 34302.5 of the Government Code is amended to read:

34302.5. Before circulating a petition seeking the incorporation of a new city, the proponents shall comply with Section 34303.5 and shall concurrently therewith file a notice of intention to ~~de se~~ circulate a petition for incorporation with the clerk of the board of supervisors. The notice shall contain the names and addresses of and be signed by not less than 25 nor more than 50 qualified signers as proponents intending to circulate the petition, the a specific detailed legal description of the boundaries of the territory proposed to be incorporated, and shall designate the name and address of the person to act as chairman of the proponents for the purpose of receiving notices, process and other communications regarding such incorporation.

Notice of receipt of the notice of intention to circulate shall be given by the clerk of the board of supervisors to the legislative bodies of all cities whose territorial limits lie within three miles of any of the territory proposed to be incorporated into a new city. Such notice shall be given by mail addressed to the legislative bodies of the cities entitled thereto and shall in general terms indicate the area proposed to be incorporated.

Not more than ~~two one~~ such ~~notices~~ notice affecting the same or substantially the same area shall be filed within a period of one year.

Section 2. Section 34302.6 of said code is amended to read:

34302.6. For a period of 90 days after submission of the boundaries of the proposed incorporation to the boundary commission and the concurrent filing of such the notice of intention prescribed in Section 34302.5, (a) no other notice of intention, except an amended

notice, as provided in Section 34303.5, shall be filed hereunder for the incorporation of any of the same territory described in the filed notice; (b) no notice of intention to circulate a petition for the annexation of any such territory under the provisions of the Annexation Act of 1913 shall be filed or consented to by the legislative body of any city; (c) no petition shall be filed with, and no proceedings shall be instituted by, the legislative body of any city for the annexation of any such territory under the provisions of this division; and (d) no proposal for the incorporation of any of the same territory or for the annexation of any such territory to any city shall be submitted to the boundary commission.

Section 3. Section 34303.5 of said code is amended to read:

34303.5. No petition seeking the incorporation of a new city may be circulated or filed with the board of supervisors, and neither the board nor the clerk of the board shall accept any such petition for filing, (1) until 15 days after the proposal for the incorporation of the new city, including a map and specific detailed legal description of the boundaries of the territory proposed to be incorporated, has been submitted to and reported upon to the proponents and the board of supervisors by the boundary commission of the county with respect to the definiteness and certainty of the proposed boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, deficiencies in public access within the boundaries between territory in the proposed city and the remainder of such city, and other similar matters affecting the proposed boundaries; or (2) until the boundary commission has reported with respect to the definiteness and certainty of the altered boundaries, if any, as provided in this section.

If the boundary commission does not report upon the petition boundaries within 30 days after it is submitted to it, the petition boundaries shall be deemed correct.

If any alteration in the proposed boundaries is made by the proponents pursuant to the recommendations of the boundary commission or the board of supervisors as provided by Section 34303.6, the proponents shall re-submit a revised map and a revised legal description of the altered boundaries of the territory to

the boundary commission for report as to definiteness and certainty of such boundaries.

Within 20 days after the altered boundaries have been resubmitted, the boundary commission shall report to the proponents and the board of supervisors with respect to the definiteness and certainty of such boundaries.

Within 10 days after the date of the boundary commission report on the altered boundaries, (1) the proponents shall file an amended notice of intention containing a revised legal description of the boundaries altered as recommended by the boundary commission or the board of supervisors, and (2) the clerk of the board of supervisors shall issue an amended notice of receipt to all cities notified under the provisions of Section 34302.5.

Further, the protective restrictions provided by Section 34302.6 shall apply to the territory within the revised boundaries until the end of the 90 day period after the filing of the amended notice of intention.

Section 4. Section 34311 of said code is amended to read:

34311. The board shall hold a hearing at the time fixed, and may adjourn the hearing from time to time, for periods not to exceed two months in all.

If upon the final hearing the board of supervisors finds and determines that written protests to the proposed incorporation have been filed with the board, signed by the owners of land within the boundaries of the proposed incorporation representing 51 percent of the total assessed valuation of the land within said boundaries, the jurisdiction of the board of supervisors shall cease; no election shall be called and no further petition for the incorporation of the same or substantially the same area shall be initiated for ~~one~~ two year years after the date of such determination.

For the purposes of this section written requests for exclusion shall be deemed to be protests.

Explanation:

(1) The provision for concurrent filings would eliminate the questionable and confusing practice of proponents filing notices of intention with the board in advance of the filing of the proposal with



the boundary commission. Often this has been done to gain priority over a competing proposal to incorporate or annex. Many of these notices of intention contain boundary descriptions hastily prepared by laymen and not in legal form. It is questionable whether such notices are valid when filed prior to the report on the boundaries by the boundary commission. The provision for concurrent filings would provide a definite starting date for the 90 day period of protection against overlapping proposals and would be fair to all competitors.

Some doubt has been expressed as to whether the notice of intention, required to be filed with the board of supervisors, is filed as of the time it is filed with the clerk of the board of supervisors or at some time later when it is placed before the board in open meeting. Upon advice of County Counsel, the present practice in Los Angeles County is to consider the notice of intention filed when it is filed with the clerk of the board. However, when the computation of a statutory period of time is to commence with a "filing", the person or body with whom the filing is to be made should not be left to mere conjecture. Since the proponents of an incorporation frequently have valid reasons for wishing to file on any business day, there would appear to be no good reason for requiring such filing to be made with the board of supervisors itself only on a day when the board is in regular session.

The requirements for boundary descriptions in the two filings were made identical for clarity. Also, since the filings would be concurrent, no hardship would be involved in requiring each to be a "specific detailed legal description" as now required for the proposal to the boundary commission.

(2) The amendment of Section 34302.5 to restrict the filing of notices of intention to not more than one notice within a period of one year, we believe, is desirable to provide consistency of practice with the "waiting periods" in regard to incorporation proceedings (Sections 34307.1, 34311 and 34325.1). At present two such notices per year are allowed. Further experience in Los Angeles County indicates that the most frequent reason for multiple filings of notices of intention is merely to "freeze" an area until such time as the prospective proponents ultimately desire to go forward with an incorporation proposal.



(3) The requirement for the boundary commission to report to the Board as well as the proponents is intended to give the Board information it seems logical for it to have at the time of the Board hearing on boundaries. Broadening the scope of the boundary commission report to include deficiencies in public access ties in with Item IX.

(4 & 5) The provisions for the proponents to alter the proposed boundaries on recommendation of the boundary commission or the board of supervisors (see Item X) and for the period of protection against overlapping proposals to be extended should overcome the reluctance of proponents to agree to any alteration in the location of boundaries for fear of losing priority and the protection of the 90 day period.

The requirement to submit altered boundaries to the boundary commission for report as to definiteness and certainty only is similar to the existing requirement as to annexations. (Government Code Sections 35121.6 and 35313.6).

The Los Angeles County Boundary Commission, for some time has recognized the need for the prohibition against filing overlapping incorporation and annexation proposals with the commission. This could eliminate some unnecessary work for the County Engineer and the Boundary Commission on proposals which cannot be completed, and could eliminate some of the present confusion and litigation resulting from conflicting proposals.

The recommendation to extend from one year to two years the period which must elapse after determination of a 51 percent protest before another incorporation petition can be filed is intended to provide consistency with the other "waiting periods" now required in connection with incorporations. These are two years after a petition is found to be insufficient. (Sec. 34307.1) and two years after an election fails (Sec. 34325.1). In view of these requirements, it appears reasonable to also require a proposal to remain dormant for two years after such majority protest.

LAMBIE continues: We have made no illustration in the matter of overlapping and competing proposals for incorporations. I am sure you are aware of the fact that we have received a number of

them. We recommend a requirement that the filing of the proposal with the Boundary Commission and the notice of intention with the Board of Supervisors be concurrent, and also that the present 90 day protective period against overlapping proceedings be expanded to apply to the filings with the Boundary Commission of overlapping proposals for incorporation or annexation of the same territory. We further recommend that the filing of notice of intention affecting the same, or substantially the same, area be restricted to one rather than two per year, and also that the period must elapse after abandonment of proceedings due to 51 percent protest be extended from one year to two years, in consistency with other waiting periods. Concerning this particular thing in regard to incorporation of substantially the same area, I would like to have Mr. Gordon Nesvig, the Clerk of the Board and the Secretary of the Boundary Commission, give you a few words and illustrations of the problems that reach that commission.

GORDON NESVIG, Clerk of the Board of Supervisors, Los Angeles County: This probably should be the time to go into what Mr. Hegland brought up previously. As it exists at present, there are different waiting periods for annexation procedures and incorporation procedures, especially the time lapse after an election and the time lapse after an incorporation fails, in addition to the time element when the protest to incorporation reaches 51 percent. What we are attempting to do is make uniform provisions, both in the annexation sections and the incorporation sections so that we do have the same waiting period in each instance for both annexations and incorporations. Also, we are recommending that the jurisdictional time start running with the

filing with the Boundary Commission, rather than with the city's obtaining jurisdiction on its own motion in the case of annexation and in the case of incorporation when a notice of intention is filed with the Clerk of the Board of Supervisors. We have had many instances where there will be people lined up at my door at 8:00 o'clock in the morning at the expiration of a particular waiting period because we don't open our office until 8:00 o'clock in the morning, and the night before the City Council will move at midnight to obtain jurisdiction for the same area. We think that all parties who want to obtain unincorporated areas should be able to have the same protection as far as starting their action for obtaining this area. Inadvertently, the two filings of the notice of intention to circulate got into the law. I don't believe anyone really intended for that to happen. This means that at the expiration of ninety days the incorporation proponents, if they are using this as a holding action against the city for annexation, can again come in with merely a notice of intention to circulate, file it with me, and sew up the area again for 90 days, which precludes the city from annexing. This has happened and we have been upheld in the courts as far as our taking these notices of intention. I think it would be the intent of the Legislature to give everyone the same prerogative as far as annexing or incorporating an area is concerned. This in a nutshell is what we are intending to do. In other words, we have had experience in the last four years in incorporation. Prior to that there has been no problem because incorporations were few and far between. Now that we have had 50 or 60 or 70 attempts at incorporation in the last four years, it does

become a problem. Some cities that have been looking at an area for some time and are not quite ready to annex it have been faced with the fact that they must either annex it or lose it to incorporation. This is something that has grown over the last four years. We think that the Act should be uniform both for annexations and incorporations. Briefly, this is what we are trying to attempt to do.

GEDDES: Well, if we had it uniform then everybody would line up at 8:00 o'clock the next morning. What are we going to do - toss a coin to see who gets their papers stamped on the time clock first?

NESWIG: Mr. Geddes, this is a problem we have considered. There is no question about it; if you have one starting point, there is going to be more than one starter, and the decision will have to be made. At least the decision will be with the one agency rather than have the law inconsistent to the extent where the City Council can get their council together at midnight and act, precluding some proponents of incorporation from moving ahead.

GEDDES: That still would be a problem there.

NESWIG: There still is a problem. Somebody has to make the decision at some time or other in any of these actions. No question about that, Mr. Geddes.

GEDDES: You don't feel that the time at which the initiation was made on the local level, whether it be for incorporation or annexation, if due diligence could be shown, that that would have any bearing on the actual filing date, or would that be a factor?

NESVIG: I don't think it would. Actually, this would have an advantage for a couple of reasons to an annexing city. Outside of



the midnight actions of the City Council, we have the situation where the law provides for the boundary commission's action prior to the City Council's action. This has been a question which has never been really adjudicated. However, it still exists and we have a situation where a city is handicapped by the proponents of an incorporation filing a notice of intention which is the sole act that they have to perform to obtain their 90 day protection since a city legally, as far as our opinion is concerned, must obtain boundary commission action, which could be two weeks after they file with the boundary commission , before they can act on their own motion to obtain jurisdiction; so we are trying to clean up all these things as we go along.

BRADLEY: I have a question. If I understand the situation now, after the second 90 day period has expired, then the respective parties are on the same equal footing which you are recommending under this change here, are they not? That is, a city can come in with its application. Now it seems to me that perhaps that has already occurred within your experience, and if there was a question of who was applying first, what basis for deciding this was used in your department?

NESVIG: Is this in the case of incorporation versus incorporation?

BRADLEY: Yes.

NESVIG: Two different sets of proponents trying to incorporate the same or substantially the same area?

BRADLEY: Right.

NESVIG: We have had this happen in the case of the La Mirada area. We had a Blue Hills incorporation and Mirada Hills incorporation, and another one - Santa Fe Springs, I believe it was - competing for the same territory. We went to court on this and the Superior Court did say that we have the prerogative of making the decision. We decided it on the basis that the proponents that had the prior chance at the area had had their chance and it was now time to have someone else attempt an incorporation for a different area. This did incorporate some of the prior proponents' territory; this does happen, yes, sir.

BRADLEY: Then that decision was based on the idea that one party had had an opportunity at this thing before; therefore, the other party should have their turn at it.

NESVIG: Well, we have interpreted it this way; they put the 90 day protection period in there for a reason, and it does give the proponents time enough to either get off the ground with their petition or abandon the proceedings, and if there is some other interested party, then they should take their turn. This is the reasoning that we used.

BRADLEY: Mr. Hegland has a question.

HEGLAND: This question, sir, is directed to where the competing parties are as follows: one seeking annexation of a nearby large city and one seeking incorporation. Has your Department considered the possibility that instead of having this decision made by a governmental agency, of submitting both proposals simultaneously at an election in the affected area?

NESVIG: We have never considered this but it certainly has merit. A lot of the proponents and a lot of the people in some of these areas are wondering and have brought this question up as to why they can't decide for themselves whether to be annexed or incorporated.

HEGLAND: These is such a bill before this committee.

BRADLEY: We have one more question, too, Mr. Nesvig. Mr. Curtin has a question.

CURTIN: In paragraph 3 of the suggested change of Code Sec. 33402.5, you state that not more than one such notice affecting the same, or substantially the same, area shall be filed within a period of one year. What would be your opinion of this: striking out "the same or substantially the same area" and putting in "Not more than one such notice shall be filed embracing any of the same territory within twelve months"? The reason for that is in the case of a very large annexation, several such notices of intention can be filed in sequence in different areas of the proposed territory and the proponents then would be powerless to act. I would like your opinion on that suggestion.

NESVIG: This would solve our problems. Actually, we are not real happy with the wording "substantially the same area" and we have been in a lot of trouble because of this phraseology. This leaves the decision completely up to us as to what is "substantially the same area" and what is not. The Superior Court said we were wrong in the case of Mirada Hills. The District Court of Appeals has upheld our side of it and it is now being appealed to the Supreme Court. We would like this very much. We have an alternate proposal,

as you will see as we go along here, that will try to give us some yardstick as to what is "substantially the same".

CURTIN: I see. Then in your opinion you think if that wording, "the same or substantially the same" was stricken and the word "any" was put in, it would give you more leeway.

NESVIG: It would leave that territory up to the people residing within it for another year.

CURTIN: And then it would be more definite. People would know what the standards would be without having to go to court. Thank you.

LAMBIE: Our next recommendation is:

Item	VIII
Subject:	City Incorporations - Definition of "substantially the same area".
Reference;	Government Code Section 34301.1.
Recommendation:	That the above section of the Government Code be added to define the phrase "substantially the same area" used at least four times in the code in regard to areas proposed to be incorporated.
Bill Draft:	<p>An act to add Section 34301.1 to the Government Code relating to the incorporation of new cities.</p> <p>Section 34301.1 is added to the Government Code, to read:</p> <p>34301.1. "Substantially the same area" as used in this chapter, means territory which includes more than 50 percent of the last previously proposed incorporation, or territory more than 50 percent of which was included in such proposed incorporation.</p> <p>"The last previously proposed incorporation", as used in this section, means the territory within the boundaries defined in the notice of intention to circulate a petition for such incorporation, except, for the purpose of Section 34325.1 after the election for such incorporation has failed, it shall mean the territory within the boundaries defined in the notice of such election.</p>



Explanation:

In restricting the filings of notices of intention (Section 34302.5) and in requiring the "waiting periods" (Sections 34307.1, 34311 and 34325.1) between successive attempts to incorporate identical or similar areas the Government Code uses the wording "the same or substantially the same area".

This new section is designed to provide a definite "yardstick" for determining whether or not the territory proposed for a new city is "substantially the same area" as that previously proposed. Obviously there is no problem when the old and the new boundaries enclose the same area.

In Los Angeles County several attempts have been made to evade the spirit of these legal requirements. For example, after an incorporation move has been terminated or defeated, it is not uncommon for the proponents to immediately start again without waiting the required period, using boundaries revised just enough, they hope, so as not to define "substantially the same area" previously included. The new section recommended would provide a basis for determining whether or not the subsequent filings can legally be accepted.

LAMBIE continues: There is no problem when the boundary of the new proposal is the same as the boundary of the previous one. However, when the proponents of a repeat proposal attempt to avoid the restrictions of the Code by changing the boundaries, we have had no yardstick to use in determining whether or not the new proposal covers substantially the same area as the old proposal. A recent Appellate Court decision, if and when it becomes final, may be helpful.

We recommend that the term "substantially the same area" be defined in the code to mean territory which includes more than 50 percent of the last previously proposed incorporation, or territory more than 50 percent of which was included in such proposed incorporation. The illustration here indicates in orange the terri-

tory in original proposal A which was defeated at election for incorporation. The territory in the second proposal, B, for which a notice of intention was filed within the two year period after the election is colored in green. The area bearing the darker shade as the composite of the two colors, is the area common to both proposals. It comprises 61 percent of the original proposal and 56 percent of the second proposal. Applying the recommended definition, the notice of intention for the second proposal could not have been accepted. Are there any questions on that? Mr. Nesvig, do you have anything to add?

NESVIG: I don't think there is much more to say. This sounds a little more complicated than it is. Actually, it insures that a majority of the area proposed to be incorporated can't be incorporated again for another year. Basically, that is what we are trying to do. Mr. Curtin, your proposal would even be better than this.

LAMBIE: Our next recommendation is:

Item	IX
Subject:	City Incorporations - Prohibition against shoestring strips of city territory, and islands or corridors of county territory.
Reference:	Government Code Section 34312.
Recommendation:	That the above section of the Government Code be amended, in relation to the boundaries of new cities, to prohibit shoestring strips of city territory over 300 feet long and less than 200 feet wide, the width exclusive of highways.  Also, that the amendment prohibit new city boundaries which result in:

- (1) Islands of county territory within the new city.
- (2) Islands of county territory, less than one square mile in area, between the new city and any other city or cities;
- (3) Corridors of county territory more than 300 feet long and less than 200 feet wide, the width exclusive of highways;
- (4) Corridors of county territory consisting solely of a highway; or
- (5) Portions of new cities attached without public access through such cities.

Bill Draft:

An act to amend Section 34312 of the Government Code relating to the boundaries of new cities.

Section 1. Section 34312 of the Government Code is amended to read:

34312. Establishment of the boundaries and determination of the size and shape of a proposed city are matters for the sound discretion of the board of supervisors.

In establishing the boundaries of a proposed city the board of supervisors shall not include any territory which is dependent for contiguity with other territory of the proposed city on a strip of land over 300 feet long and less than 200 feet wide, such width to be exclusive of highways.

Further, the board of supervisors shall not establish the boundaries of a proposed city in such a manner that, as a result of the incorporation, (1) unincorporated territory is completely surrounded by the new city; (2) unincorporated territory, less than one square mile in area, is completely surrounded by the new city and any other adjacent city or cities; (3) a strip of unincorporated territory more than 300 feet long and less than 200 feet wide, such width to be exclusive of highways, is created; (4) a strip of unincorporated territory consisting solely of a highway or portion thereof is created; or (5) public access does not exist within the boundaries between any territory in the proposed city and the remainder of such city.

Explanation:

The law now prohibits the creation of such strips by annexation, and it is just as logical and desirable to prevent them at the time of incorporation. Also, the proposed prohibitions on new city boundaries which result in islands or corridors of county territory are identical with existing or recommended prohibitions on annexations (Item V). The explanation given for these annexation amendments also applies here, including reference to possible amendments of the 200 foot by 300 foot regulations on strips and corridors after study of the decision in the litigation cited.

The prohibition against boundaries which result in a portion of a proposed city not having public access through the city to the remainder of the city we believe is a logical regulation. This would prohibit the creation of a city with unreasonable boundaries where it is necessary to move in and out of the city many times in traveling from one end of the city to the other on public roads. However, it would not prohibit the creation of a long and narrow or oddly shaped city if the boundaries were topographically and otherwise reasonable as, for example, following the sides of a canyon traversed by a public road or roads. (Also see Section 35303.5 in Item VII).

LAMBIE continues: In regard to the boundaries of new cities, the law imposes none of the restrictions or prohibitions against shoestring strips and islands or corridors of county territory which applies in annexation proceedings.

We recommend that the existing regulation to annexation boundaries be also applied to incorporation boundaries, and also that the requirement for public access, as recommended for annexations, be applied to incorporations.

The next illustrations show: (1) an incorporation comprised of two areas connected by a strip more than 300 feet long and less than 200 feet wide exclusive of the highway. Under the recommendation this would not be possible; (2) the proposed incorporation of City B leaves a strip or corridor of unincorporated



territory of more than 300 feet long and less than 200 feet wide exclusive of the highway. As I mentioned in the similar case a moment ago where annexation would create such a corridor, it would be a violation, but here we have an incorporation. Under the proposed change, this would be a violation also. (3) In the upper example, no public access exists between the various parts of the incorporation within the boundaries. Travel or service from one part to another of the city is possible only by using streets outside the city. I might say in this case that in many of these similar situations, these are now other cities and not just unincorporated areas. An incorporation with such boundaries would not be possible under our recommendation. The lower example indicates the boundaries for a long and narrow canyon which could be incorporated if the boundary would follow the appropriate property lines and the highway traversing the canyon could provide a normal access and installation of utilities and service for that canyon.

Are there any questions on this particular recommendation?

BRADLEY: Mr. Lambie, for the record, the Committee has had some hearings on the motivations for the incorporation of new cities. We have seen many outlines of new cities that have been incorporated and we will agree that there have been many odd and peculiar shapes, but other than the fact that you may have difficulty in knowing as a new resident of a newly incorporated city whether you are in the county or the new city, what particular objections do you have as to the peculiarity of the shape of a city, other than the fact that it would be nice if it was rectangular or square, or

something like that? I can see your illustration of the one above where you don't even have a street within the portion of the city, or within the complete city, but the one down below has public access. However, it is an odd shape. Do you people have some particular reason why it shouldn't be peculiarly shaped?

LAMBIE: For instance, in a similar situation for the upper one, I can recall definitely where a trunk sewer was located down through the heart of that particular area and the people outside of this city could not get to it except at the terms of the city marked in yellow. This meant that the subdivider who was willing to install an appropriate sewer and within reason a sewer to serve his subdivision, or the county improvement district, or the group of citizens getting together would have to deal with the city and they will ask for outlets, laterals to be provided - all sorts of things to serve the properties there - and they will not be willing to share or reflect a reimbursement proceedings. I think it does work a hardship for cases where there is no access for them to get down to it. Now, this is another street; the maintenance of that boulevard is the responsibility of another city, yet the sales tax will be collected inside the city in yellow, and the properties, the taxation and the benefits to that city will flow, and yet the street is not part of it. You may have to go out into that street for the utilities and connecting services.

BRADLEY: Referring to your illustration No. 3, the upper one where there is no public access, is that unincorporated territory across the boulevard, or is that a city?

FLICKWIR: The answer is that most of that area is incorporated.

LAMBIE: It runs for 16 miles you know. Our last recommendation follows:

Item: X

Subject: City Incorporations - Preliminary Board Hearings.

Reference: Government Code Sections 34303.6.

Recommendation: That Section 34303.6 be added to the Government Code to permit boards of supervisors to hold preliminary hearings on boundaries of proposed cities.

Bill Draft: An act to add Section 34303.6 to the Government Code, relating to the incorporation of cities.

Section 1. Section 34303.6 is added to the Government Code to read:

34303.6. Within 15 days after receipt of the report of the boundary commission, the board of supervisors may hold a preliminary hearing on the boundaries of the proposed city. Such hearing may be held not less than three nor more than seven days after notice of the hearing has been published pursuant to Section 6061 of this code in a newspaper of general circulation printed and published within the described boundaries, or posted in at least four public places within the boundaries.

At the preliminary hearing the board of supervisors may recommend to the proponents that the boundaries of the proposed city be altered by adding or excluding lands to make the boundaries conform with the provisions of Section 34312 of this code and otherwise make them more reasonable and practicable.

Explanation: This provision for a preliminary board hearing would give the Board a chance to consider the boundaries at a time before circulation of the petition, when it is possible to recommend the inclusion of additional lands as well as the exclusion of lands. At the regular hearing the Board can only exclude lands and therefore cannot eliminate many objectionable boundaries. At the preliminary hearing the Board would have the benefit of the Boundary Commission's report and as much testimony as it may wish to hear.

While it would not be mandatory for the proponents to make all of the Board's recommended alterations, they could hardly ignore those intended to make the

the boundaries comply with Section 34312 (see Item IX) because the Board could not later establish the boundaries in violation of the section.

The amendment of Section 34303.5 recommended in item VII makes provision for the alteration of boundaries.

LAMBIE continues: Here we recommend a permissive proposition that the Board of Supervisors may hold preliminary hearings on the boundaries of proposed cities. The main advantage of this proposition would be that if at this stage, prior to the circulation of the petition, the Board of Supervisors could recommend the inclusion of additional lands and avoid the creation of county islands and many objectionable features or boundaries that cannot be corrected at a regular board hearing. Gordon, do you wish to comment?

NESVIG: On the face of this thing, it looks a little more ominous than it actually is. I think we can clear up some of the questions that Mr. Britschgi has in his mind now as far as the boundary commission is concerned. We are not attempting in this particular thing to give the boundary commission any more power than it has. Actually, in our county the boundary commission, according to the County Counsel's opinion, has no more authority than to review boundaries for annexations and incorporations and report that they are sufficient and that they go around in a circle and meet at the end. However, if we find an obvious legal discrepancy, we call it to the attention of the proponents. This is as far as we go. We are attempting here at the time that a proposal is submitted on an incorporation, to give the Board of Supervisors and the proponents



an opportunity to get together and take a look at the boundaries and see whether there should be some adjustment prior to getting the entire area stirred up. We are trying to get them to come to a tentative agreement as to what boundaries could be submitted in a petition. This is all we are attempting to do. What happens now is that a group of proponents, which is a small group, would start an incorporation movement. They think they have a compatible situation at the outset. As soon as they file their notice of intention, they declare now that these are the boundaries that they want to include in their petition. Oftentimes the proponents are not happy after a week or so and the press gets hold of it and certain elements get stirred up with the boundaries that they have submitted. They are stuck with it and they are stuck with it not only through the boundary commission that merely approves the boundaries, but in addition, they have to go through their circulating procedure and probably make tentative agreements with school districts and various other elements so that when they get to the final boundary hearing, and after all, it has been aired in the press and everything, we have got quite a battle on our hands. A lot of this I think could be avoided by having a preliminary boundary hearing with the proponents and any other elements in the area that may wish to air their views before the boundaries are actually set, and before they go to the petitioning stage. This is what this means.

BRADLEY: Well, that I presume contemplates that there is no particular competition going on for a particular area and that this is just a routine type of annexation or incorporation and that

you don't have this stepping on each others toes to get to the boundary commission.

NESVIG: This is specifically with regard to incorporations; this would not happen in an annexation effort. This is the City Council's business and we don't want to interfere with that type of a situation.

BRITSCHGI: It would seem to me that somewhere along the line I was hoping that there would be some recommendation that the boundary commission would have more authority than it has now. As you stated a moment ago, you sit there and you just go around in a circle and you end up back in the same place where you started. In regard to such an incorporation as I see here in yellow, it would seem to me to be a bad bit of incorporating, to have that little tip going out across to the other side. I can see a million different difficulties coming up in there but you have no authority to make any changes in it.

NESVIG: This, Mr. Britschgi, is an area that has been explored by both the Legislature, the League of Cities and County people, and it is one that some of us, as individuals, feel that there should be some agency that would be able to say that this is not a good boundary for such and such reasons, please take it back and review it, and the proponents then could go no further until they did so. This would be an ideal situation, if somewhere in the county there would be in existence a boundary body that did have some authority. How you draw these lines is a matter of much debate in almost any agency. I think I agree with you there, to that extent.

BRITSCHGI: That is what bothers me.

McLAUGHLIN: Mr. Chairman, in answering Mr. Britschgi's question, I think you understand that this is a matter of policy and none of us have been elected so we are not setting policy. I think as individuals we would have a tendency to agree.

Mr. Chairman, to further illustrate the problem of these islands and the problems that they are creating, specifically, I would like to ask Mr. Arthur Will, who is the County's Coordinator of City and County Affairs, and who is extremely familiar with the problem, to give you a few specific illustrations.

ARTHUR WILL, Coordinator of City and County Affairs, County of Los Angeles: Mr. Chairman and members of the Committee, at the risk of outnumbering the Committee, we felt that we wanted to leave you with the impression that these are not just technical problems that we find in the code but actually are problems that are common to both county employees and employees of the various cities. The provision of service to islands and into and through highway corridors, as we call them, has given us a large number of problems throughout the years. I think probably the most dramatic example is the problem of responding with emergency equipment into these highway corridors. We have in Los Angeles County 16 or 17 highway corridors where we have had problems of jurisdiction. Those are places where the street or a portion of the street is entirely surrounded by a city, but the street itself is in county territory. The problem of responding with emergency equipment to the scene of a fire or an accident is acute and we have to bring this right down to the working level where a police or a fire department, or sheriff's office, will receive a call for an accident and the call won't say that the

accident is 200 feet west of the intersection, or a certain distance from the center line of the street, or that city boundaries may exist, but will state only that this is an accident at a certain location. The fire dispatcher, or the police dispatcher, has just a very few seconds; he has a map on the wall; he has to dispatch equipment; he has to make a decision. Emergency equipment from two or three agencies will roll into the area. In many instances a complicated set of mutual aid agreements, joint powers agreements, or just informal agreements between the officers of these various jurisdictions will take care of the situation so that a person is not left on the street injured. However, just recently we had an instance where the equipment from two cities and the county all responded to the scene of an accident. One of the pieces of equipment actually responded to within about one-half a mile, turned off his red lights and siren, hid out about a block away from the scene of the accident and waited to see who was going to pick the person up; then it turned around and went back. This happened to be in the jurisdiction of this particular employee where the accident occurred. He should have gone and picked him up. Now this is a very dramatic example. We have many others where we have islands deep within cities, two or three miles within cities, which we have to serve. It is not only the problem of serving what might be considered uneconomic areas from the standpoint of size, but also the difference in the level of service. We have an island in one city where a large boulevard running through the island is landscaped on both sides and where there are separating traffic islands which are lined on the



street with trees. This is a very small island with about two blocks of this major street being in county territory. The County does not, from its general funds, do this landscaping work. However, it was originally constructed by the subdivider and after at least one election, the people in the island have not gone into the city. Therefore, we have a beautiful street leading up to the island and going away from the island, and in the island itself the trees are dead, the crabgrass has grown up about this far above the top of the curb, and in some cases has completely obscured the public improvements that are there. Now this doesn't affect the public health and welfare but it is a continual irritant to the people in that area. Therefore, we would like to leave with you the impression that there are some real and varied problems which are involved with serving both these islands and strips throughout the County.

BRITSCHGI: Mr. Will, how many of these problems could have been averted had we had a little more authority with the boundary Commission?

WILL: Purely as a hypothetical answer to a hypothetical question, our Board of Supervisors has not entered this field and instructed us at the present time; it would depend entirely upon the type of authority that the boundary commission, or a similar commission, would have. If they had the authority to determine upon the propriety of an annexation, or an incorporation, as to its economic soundness, etc., then probably many of these problems would have been resolved. However, you do get into some very practical problems here and I think this was illustrated in the bill that was adopted by the

Legislature last year on the minimum number of inhabitants required for an incorporation. The prior provision for 500 inhabitants was changed to 500 registered voters. Now in making the proposal which was made by the Board of Supervisors of Los Angeles County, certainly there were many, many better standards to use but all of us - and I participated in this - were just frankly unable to put into words the standard which could be applied throughout the State by county clerks, by the State Legislature, and perhaps by the courts. We could not find a meaningful standard that would spell out economics on this minimum population, minimum assessed valuation, and various things of that sort. So, in the establishment of power in any body, some meaningful standards must be laid out, or I think that we are probably going to be cluttering up the court calendars in a lot of cases. The State of Minnesota has gotten into this. There a commission was appointed; they had proposed a very stringent law which would provide for an independent commission at the State level to pass upon each of these things, and this is the one problem we have. Everyone agrees that it is desirable but how do we do it? An economic standard for the City of Beverly Hills would obviously be completely different from the economic standards for Inglewood or for many other parts of Los Angeles County. This is the major problem, and we just weren't able to put anything together that was any better than the counting-of-noses type of standard which we proposed in the number of registered voters change which was the basis of the incorporation change in the law.

BRITSCHGI: I was thinking about a type of commission that you are speaking of in Minnesota with the authority to go into

each county and to study the economic feasibility of a county and to come up with a plan more or less for each county for final approval on certain matters, and thus take it out of the local family quarrel status, because that is what you get into. I think most of these cities which have been incorporated down here were incorporated initially just to avert family quarrels. The way I look at it is if a certain area doesn't want to incorporate and another area wants to, why they just incorporate and they eliminate and carve out the ones that are going to object and say, well, you can stay outside. Obviously on some of these, I think this is probably true.

WILL: Perhaps you are right. This is done in a variety of ways. Virginia does it in the courts, a very arbitrary ruling on this type of thing.

BRITSCHGI: It is a very interesting field; I'll say that much for it.

BRADLEY: This also goes into the field of home rule, and in a number of states they do not begin to have the amount of home rule on the local level of government that we have in California, so we have that to consider too.

GEDDES: Mr. Will, speaking about the population requirement, or rather the registered voter requirement, if I remember correctly, that was a bill I handled for Los Angeles County.

WILL: That's right.

GEDDES: That started out first that there should be a minimum of, I believe, 2000 registered voters. That was finally amended to 1000, I believe, and then it was suggested that it would be better at 250, which manifestly was too low, and we finally

settled on 500. Was the 2000 more or less an arbitrary figure to get the thing started or did you have some very cogent reasons why 2000 and not 500 registered voters should be the standard?

WILL: I would say it was an educated guess at where we thought the appropriate figure should be. It could have been 5000; it could have been 1000. By comparing population and registered voter figures in cities throughout the basin, we felt that 2000 registered voters would make an average sized city.

GEDDES: That would contemplate that there would be sufficient homes in the area, sufficient tax base, and that the proposed city could operate as a city and not, more or less, as just a protective device to head off annexation to one of the surrounding cities. In this manner the city could go on its own much better with a 2000 registered voter base so that there could be actual voter participation in the affairs of the new city.

WILL: This is what we hoped, yes.

McLAUGHLIN: Mr. Chairman, if there are no further questions, or if the Committee desires no further information, this would conclude the presentation of the County of Los Angeles. We would like to express to the Committee our thanks for their consideration and attention. We fully realize that this is a problem of no mean magnitude and we are very hopeful because we know from this Committee's previous dedicated devotion to the study of these problems that you will give this your earnest consideration. We shall be available to the Committee at any time during the interim period for any further testimony, evidence, or technical data that you may need.



BRADLEY: May I say, Mr. McLaughlin, on behalf of the Committee, that this is a very excellent presentation and a very fine outline of proposed legislation. I am sure that you and your group realize that this is just the opening scrimmage. We have a long way to go before we arrive at what we hope will be a complete report but we most certainly will without a doubt be referring back to you and your various departments for additional assistance and help.

McLAUGHLIN: Thank you, Mr. Bradley. We realize that this is the preface for the book yet to be written, but we will be available.

BRADLEY: Mr. Branin, would you like to make a presentation at this time?

PAT BRANIN, Mayor's Office, City of San Diego: Yes, sir, thank you. Your arrival here is concurrent with a very busy City Council agenda and the Mayor regretfully cannot be present. This is Mayor Dail's testimony:

There is a well established school of thought in the field of Municipal Government which contends that the best means of providing governmental service to people is through the mechanism of incorporation or annexation.

This same school of thought promotes the proposition that the trend toward incorporation of villages in suburban sections of metropolitan areas deserves encouragement because "Bigness" is not the answer to our city problems.

I must confess a personal feeling of shock at these superficial attitudes. In the Metropolitan Area of San Diego we have had ample opportunity to witness more than one ill-advised and financially unsound incorporation procedure.

These incorporations and annexations bring no glowing picture to my mind of groups of dedicated people carefully studying their urban problems and putting into operation their well-planned solution. I see no evidence indicating that this great State of ours has taken one single step toward the solution of our cities' growth and development problems by improving our present system of incorporation and annexation. On the contrary, I am forced to the conclusion

that what this school advocates may well be the beginning of governmental fatality. Cities are fighting cities for scraps of land; subdividers look for the best city bid and inducement; tax-free governments are being offered to prospective new city citizens; crazy quilt cities are developing that would make an old Gerrymander blush with envy; incorporators for hire are becoming a recognized profession; cities are being formed which have no geographical, financial, or logical justification; county urban areas continue to exist which also have no geographical, financial or logical reason to so exist; and, knowledge of contract administration is becoming the sole requirement for city administrators.

I would like to cite a few examples from my own county which I believe have counterparts throughout the State. Two years ago a group of County citizens expressed a desire to annex to the City of San Diego. Because this area was viewed as their "happy hunting ground" by two neighboring cities, these cities started a series of strip annexations which blocked our contiguity. As each strip annexation was defeated, a new one would be initiated by one of the cities, even when they were presented with petitions indicating that over ninety percent of the property owners in these strips were opposed. We were advised by our attorneys that these actions could continue for years within the law and without recourse on our part. Only the chance discovery of an error in one of the neighboring city's proceedings permitted our annexation to proceed, which resulted in a favorable vote for annexation to San Diego. Our City does not sell, or even encourage, annexations; however, we believe in the principle that people should be permitted to exercise their right of free choice and cannot understand how laws can be permitted which take away this right. Following this particular annexation, a series of suits have been filed against us, attempting to void the action by the residents of this area. Despite the fact that the Attorney General and the State Court have already ruled in our favor, these suits still continue, their cost being paid for with taxpayers's money.

Two recent incorporation actions adjacent to our City are also deeply disturbing to us. In one of these attempts, a group of citizens in a fairly well-developed urban county area retained a professional firm from outside the county to make a survey which was advertised as being impartial. The resulting report was anything but impartial; it recommended incorporation and justified its recommendation by a number of blatant inaccuracies. After the report was submitted, an attorney associated with this firm, was retained to sell the incorporation. This particular attempt was defeated at the polls.

The other incorporation action involved a fairly small area almost completely surrounded by the City of San Diego. This action was fostered by a group of local residents who reported to the voters that they could operate a city free of city taxes by contracting for services with the county, despite the fact the county had no interest in such contracting.

The real problem, though, was that this group failed to explain to the voters that they had a critical water problem which could cost them many hundred thousands of dollars to solve. This area did incorporate and within the first few weeks of their existence, they were placed in the position of having to go to court and retain an attorney over their water problem. The problems of this area are just beginning and the citizens of this new city may well end up paying dearly for the dubious benefit of exercising their right of local control.

I cite these examples to emphasize that I sincerely believe that we are far past the time when we can solve our local governmental problems by continuing to talk and study. To retain our position as a progressive state, we must move rapidly and purposefully forward to a positive course of action. Our annexation laws must be completely overhauled and judiciously applied so that current abuses and constraints are eliminated and orderly, and democratic growth and development are permitted.

Our incorporation laws must also be strengthened in the same way. Impartial studies and logical local governmental expansion, integration and formation are urgently needed even if it is deemed necessary that the State or the courts be the controlling agencies.

In my opinion, we are destroying our local governments by our present actions. We cannot afford to wait any longer - our citizens deserve good, strong, efficient, economical government and services - they don't deserve the mess of potage we are currently serving them. Let's make the decisions which are necessary and then make sure they are put into effect.

The next State Legislative Session should adopt a concrete program for the positive solution of this problem. The integrity and rights of our existing local government units must be strengthened. Absolute assurance of fair and honest local determination of urban unincorporated areas future status must be guaranteed.

I am personally delighted at the formation of this legislative Committee with its program of study with all interested agencies. I know that it will present a course of action both acceptable and practical. I have requested our San Diego City Manager to submit to this Committee specific suggestions for legislative action on these critical problems.

BRADLEY: Thank you, Mr. Branin. Now may we hear from Mr. Bean?

GEORGE E. BEAN, City Manager, City of San Diego: Mr. Chairman, I am George Bean, City Manager of San Diego. I have a relatively short statement to make in line with the Mayor's general statement.



Before presenting specific recommendations to your Honorable Body, I feel it would be of interest to briefly outline the history of annexations in San Diego and explain the policy under which the City of San Diego has operated for many years relative to annexations.

Within the last few years San Diego has increased in size over 100 percent, with a series of many small and a few large annexations. Two annexations alone within the last two and a half years added approximately 62 square miles to our area.

Despite this active annexation history, the policy as established by the City Council has been to neither encourage or discourage an area from annexation. The city does not have an active campaign to encourage either property owners or residents to commence these proceedings. It has always been the policy of the city to investigate every request for annexation thoroughly, to make a detailed study and report to the City Council. These reports to the City Council have indicated whether or not the annexation would be logical, practical and economical, and whether or not the city could provide the services desired by the petitioners. In a number of cases the city has turned down annexation requests where we have felt that we could not provide adequate service, or it has appeared to us that the area would more properly belong to an adjacent city.

The one thing for which the City of San Diego has fought is to make sure that the property owners and residents of any county area be given the right to determine by themselves their future status. As Mayor Dail has pointed out in his statement, this has been one of the major problems in the San Diego area.

The experience we have had of the existing state law in both inhabited and uninhabited annexations has indicated that, with minor exceptions these laws are adequate and workable. The specific suggestions we wish to make today deal solely with this problem of the right of the property owner and residents to have full information and be able to exercise their democratic rights.

We propose that in the case of uninhabited annexations, cities be prohibited from initiating such actions. It does not seem proper to us that a city should force property owners to the expense and time required in an annexation proceeding, unless the property owners have expressed a majority desire to be so annexed.

In the case of inhabited annexations, at the present time the State law is silent on the number of petitioners required to initiate an annexation proceeding. The law simply states that, upon receipt of a petition for annexation for an inhabited area, the Council shall submit such petition to the Planning Commission. We have seen a number of cases where such petitions have contained one or two names, even though the area involved is quite large and heavily populated. We would propose that this law be changed to



provide that such initiating petition contain a substantial percentage, possibly 10 percent, of the registered voters and of the property evaluation before any studies or procedures are started by the annexing city.

For the people to exercise properly their right of determination, they must also be fully informed of the facts relative to the level of services, type of service, taxes and costs which would be involved in any annexation or incorporation. Mayor Dail has pointed out in his statement that unfortunately there have been annexations and incorporations within this county and state in which the voters and property owners have not been so informed.

We would, therefore, propose that the State create an agency which would take over the duties of the present County Boundary Commission and, in addition to the services now provided by the Boundary Commission, such agency would also have the responsibility of studying all proposed incorporations and inhabited annexations relative to the merits and logic of the incorporation or annexation and what services would be provided, the level of these services, and the probable costs to the taxpayers within the area. The results of this study should be made available to the property owners and voters of these areas prior to their final determination.

We would also propose that the cost of such study would be borne by the areas proposing annexation or incorporation.

It is our firm belief that if these proposals were put in effect, maximum protection would be provided our existing cities and the property owners and residents of all county areas seeking a possible change in their governmental status. It is our firm belief too that only by this proceeding can we hope to correct some of the unfortunate inequities which have occurred in the past, and we also believe it would tend to decrease the tragic inter-city jurisdictional battles which have occurred throughout our State in the past.

BRADLEY: Mr. Bean, may I ask you a question in connection with this? There have been in the past, as has been indicated this morning by several members of the Committee, and there still is an interest in broadening the powers of the Boundary Commission. By any chance do you have any remarks that you would like to present to the Committee for the record as to how the Boundary Commission might be appointed or created in order to prevent the creation of a commission that would be either pro-city or pro-county or pro-incorporation or pro-unincorporation, and which would act, in other

words, in a completely fair and impartial manner in passing upon problems that would come before it under its increased powers? I think that has long been a basic problem in the back of the minds of the Legislature as to just how we can arrive at a practical solution to a problem of that kind. Do you have any thoughts that you want to put into the record on that?

BEAN: Well, my reaction to that very difficult problem, Mr. Chairman, is that if it were done in the manner which we have outlined here, that is, if the information job is done in the manner outlined here, then the people who are collecting that are almost within the judicial area, and while I am not sufficiently experienced in California law, having been here only a short time, it would be my own personal judgment that if either the boundary commission or a substitute therefor be brought together with a strong representation of the judicial area in it, possibly even as chairman, that you might achieve this impartiality, even though you may have to take the representation from adjacent territories than that involved in the boundary situation.

BRADLEY: You do appreciate the fact that we have a problem here.

BEAN: Yes, without any question. You obviously can't do it on a partisan basis and be sure of it; even a bi-partisan basis doesn't always resolve it and there are always some difficult areas in how do you pick impartial people when you get into the question of rural vs. urban representation. It is a difficult problem. I do think, however, that it is not an impossible one and that

possibly representation from the judiciary on the right basis might be a key to the bringing in of two or three people on the basis which we are discussing here.

BRADLEY: Mr. Britschgi, do you have a question?

BRITSCHGI: Yes. Mr. Bean, I was interested in your remarks as far as the Commission is concerned and I am thinking along that particular line. I was especially interested in hearing your thinking on the annexation part of it. You spoke about incorporations and annexations that would go before this Commission. We wouldn't want to bring in every little acre annexation or something like that. Do you have any thinking along the lines of a limited amount of land that would be annexed so that you wouldn't be tying down the Commission with so many annexations that they would never be able to do anything else?

BEAN: Well, there are obviously, of course, two basic types of classification which we have recognized here; one is the land proper and that, I think, would not pose the same problem as the inhabited areas.

BRITSCHGI: Right.

BEAN: In the inhabited areas, I think that it would not be too difficult to get a size of unit which could be properly covered by a petition that would not cause all of the ramifications of the full-scale treatment, you might say. I think it would vary somewhat as to size. I think it should vary more by the number of people than it should by geography. There should be some reasonable limit so that you could be sure that the original petition within the area

outlined could be fully covered as a democratic procedure and then be re-examined as a democratic procedure by this process and in that way avoid a lot of the difficulties that you otherwise would have.

BRADLEY: Thank you very much.

GEDDES: Mr. Chairman, I would like to ask this question of Mr. Bean, along the same lines that Mr. Britschgi did, as to the State Boundary Commission. Do you feel that this commission should have quasi-judicial powers, so to speak, or would this be an advisory group, such as we have in our school unification and county committees which work on that and then advise and also place the matter before the State Department of Education for the unification of school districts, or would the commission take over by and large 90 or 100 percent of the functions of the present County Boundary Commission?

BEAN: I would envision a coordination or a bringing together of the boundary commission so that you wouldn't have duplication. I would also envision sufficient powers in this commission to be certain that the basic facts are presented down to the voter's level or, as we discussed before, to the petitioner's level. Then there would be some rendered judgment on the level of service, the amount of service and cost, and that would be given out to all the people before the act finally takes place. So, I would envision a degree of jurisdiction, at least to the gathering of information, and as I stated, with the cost to be paid for in a manner as indicated.

GEDDES: So then the Legislature, in order for this State body to function properly and to have its authority, would have to delineate its area. Would you agree that a good many of these



proposals or their modifications that have been placed before us this morning by the County of Los Angeles would apply to the State Commission in making its determination, seeing whether these very vital factors have been taken into consideration or not?

BEAN: I would agree that they should be reviewed by a body of this kind in order to make these determinations before any final act takes place.

GEDDES: And then, if I understood the Mayor's testimony, your own State Boundary Commission would be very much concerned as to whether people concerned in an area had the full right of determination for themselves.

BEAN: Our advocacy is that they do exactly that, but they do it on the basis that they have all the information before them. That has been part of the difficulty with the misunderstandings as we have experienced them.

GEDDES: And so the State Commission would make sure before the thing went any further that there had been an adequate presentation and also a representative acceptance of the terms and the conditions that are being placed upon the area.

BEAN: That's correct.

BRADLEY: Mr. De Lotto has a question.

DE LOTTO: Mr. Bean, in relationship to your planning for the eventual full service of your metropolitan areas, that is, in regard to sewer mains, water and sewage disposal and so on, has your city ever, or is it contemplating a mass annexation attempt to give your residents the lowest unit cost for these city services?

BEAN: No. We have planned no mass annexation. As a matter of fact, we have used the opposite procedure. There were three procedures available to us specifically in relationship to this entire difficult metropolitan sewer problem which we are now in the process of attempting to solve. The three procedures would be as follows: one, the thing that you have suggested, a mass annexation to cover the territory; and the second would be to create a special sewer district legally set up to cover the geographical territory; the third would be cooperative arrangements between independent bodies that can determine their own best interests on a property. We chose that and we are finding excellent success in resolving the problem. We are taking the leadership to the degree where we are supplying the basic capacity and it will be covered by acting in one of two ways: either the city at its own option buys in and helps us with a capital program at one rate, or we supply capacity and when they get into difficulty they can either buy in or pay a higher rate. In that way we work it out on a cooperative basis by working with the administrative and legislative officials of the individual units.

BRADLEY: Thank you very much, Mr. Bean. Now, ladies and gentlemen, we will recess for the noon period. In view of the considerable number of witnesses who wish to address the Committee, the hearing will reconvene at 1:30. We will proceed from there until about five o'clock this afternoon. We now stand adjourned until 1:30.

Afternoon Session  
January 14 - 1960

BRADLEY: The meeting will come to order, please.

I would like at this time to call Supervisor Phillips from Orange County. Is he here now?

WILLIAM J. PHILLIPS, Supervisor, Orange County: Sir, I have three basic points that I wanted to actually discuss here with this committee and to bring to you possibly some of the thinking from our particular area. I know that it is no news to any of you, of course, that Orange County is exploding. We had a population back in 1940 of 130,000; in 1950 it was 216,000; and now our population exceeds 750,000. We are growing at the rate of 220 to 250 people a day. This poses quite a few problems so what I would like to present, more or less, is how we are trying to cope with these problems by the cooperation between the cities and the county, and how it is working out. We do have some exhibits that would be of interest to you and I will present them as we go along.

One problem we have which I feel is of major importance, and we are running into it every day and every hour, is in the vast expansion picture that we have in homes, businesses, and so forth. It is natural that the school districts also are expanding in their areas of need. They are building more and more schools, and still they can't build them fast enough. With the expansion of the cities in the field of annexations, both uninhabited and inhabited, we are running into a large problem now because of the change in the law back in 1953 or '54 where the school districts should be contiguous with the city's boundaries, but this is no longer the case. We now

have the problem where we have school boundaries established back in 1890 or 1888, and in that area cities have now become modern and expanded, like in my own city of Fullerton in Orange County where we went from 14,000 people to now about 50,000, and in Anaheim where the population went from 14,700 to a total now of around 100,000 people. That would just be in the last few years. Therefore, with this expansion these school boundaries have become quite a problem to all concerned. The Boards of Supervisors, as you may well know, are responsible in the final determination of whether someone can transfer from one school district to another. Now the big problem there, according to the rulings that we have received from the Attorney General and our own County Counsel, is that the territory transferred from one school district to another forsakes all obligations to either school district and does not assume any new obligations until new bonds are voted in that new school district. This has caused quite a problem, as you can well see from your bonding picture and all the rest of this. Now this, I think, is all wrong, and it is a completely inadequate approach. This is something that will hit everybody in California and has been hitting those areas that are expanding fast. It is my considered opinion, gentlemen, that the territory transferred from one school district to another should retain liability for the bonded indebtedness of the district from which it is transferred but not to assume the outstanding bonded indebtedness of the district to which it is transferred. Of course it should, and under existing law, does at the present time become liable for bonded indebtedness incurred by the territory to which it is transferred



after the transfer is effected. Legislative action is necessary to change the law with respect to retention of liability for bonded indebtedness of the district from which an area is transferred. I believe that a change in the law would be extremely helpful in solving our existing school district boundary problems.

I would appreciate very much your advice as to the feasibility of an amendment to the Education Code in the above respects and in any other particulars which would help us solve our school district boundary problems. It is a situation that is forever haunting us and must be solved at the earliest possible moment. We have consulted with all the school districts in our area and all of the school superintendents in each of the cities; it is a problem that really concerns us. One time last week we had five school boundary changes in front of the Board of Supervisors - just in one week. This can cause quite a problem as you can see.

BRADLEY: Mr. Phillips, may I ask you a question right at that point? Do I take it that it isn't the policy in Orange County on annexations to use what is known as AB 1 that was introduced several years ago which leaves the school district's boundaries intact?

PHILLIPS: No, no; what I meant, in other words, is the change in the law some time back where the city can annex over school boundary lines. This has created quite a problem.

BRADLEY: They do?

PHILLIPS: Yes, they do.

BRADLEY: You are gradually getting to the point where you have a great many school districts within the city limits.

PHILLIPS: That's right. So you have schools now which are cut off from the cities; for example, the Placentia School District was cut off from the City of Placentia by the new Riverside Freeway. Immediately to the south of this particular subdivision are some 400 homes. The Anaheim School District built a brand spanking new school, and mothers, of course, couldn't understand why their children should be bussed across a freeway and some three miles to the closest school in the City of Placentia. This causes your problem and it is one that could cause many more problems. It doesn't make sense if you get into this particular area, and after all, the just debt is definitely a just debt, I would say.

Now to get into the other field, I will not read this entire presentation. It is one that I made when I spoke to the State Chamber of Commerce at their annual State meeting in Los Angeles and it deals with the research for orderly growth and development. I would like to point out some pertinent factors here which are contained in this written presentation. (On file in Committee office in Sacramento.) As I told you, Orange County has now exploded to over 700,000 people. The figures in our county are as follows: we use 200 gallons of water per person per day, 100 gallons of sewage facilities, 3,000 trash disposal facilities, and 6/10ths of a pound of the actual garbage disposal. Now on this we have tried to work this thing out all the way and have been quite successful through cooperation with the cities in working together on many of the factors. We do, of course, all of the assessing of property, collecting of taxes, and investing of all of the money for school districts,

cities, and so forth. We jail all persons in Orange County for the cities and the unincorporated area. Our Health Officer is the Health Officer for all the cities in Orange County. Air pollution and water pollution, of course, are also countywide. (Reports on file in Sacramento.)

We have developed a master plan of refuse disposal which would provide for all pits owned by the County through the year 2000, or 3 million population, including transfer locations and the rest of it. I won't bore you with all the details of the works, and we have half of the property already purchased. It will be completely cut and covered. We have explored all the phases, such as the bacterial methods and the ocean disposal, and so forth, and these are all espoused in the exhibit titled "Master Plan of Refuse Disposal" (on file in Sacramento), with all the maps and pertinent information.

We have a master plan of highways in Orange County (on file in Sacramento) which was adopted a few years back in which, as the land use changes, the property owner dedicates to the established width from the center line and puts in the curbs and gutters and paves the street. Every two miles on a grid system, east-west, north-south, we have major highways. These are not State or Federal but county roads which will be 120 feet in width; then on the miles on the grid system you would have primary roads 100 feet in width; and on the half-mile, secondary roads 80 feet in width. I am very pleased to tell you that we have signed with the League of Cities and have developed with them a complete arterial highway financing program with which the county does put in certain of its gas tax

monies to improve roads on the master plan of highways. We have coordinated our master plans with the cities; we have set up a complete system of priorities established by a board made up of three members appointed by the League of Cities, two from the Board of Supervisors, and of course, the staff people, equally from the County and from the biggest cities. This has been working very nicely and will definitely accomplish an acceleration, let's say, of our entire road program; and, indeed, we have picked up better than 88 miles of improved highways as a result of this master plan of highways.

BRADLEY: May I ask you a question at that point? Do you have an ad valorem tax for county road improvements?

PHILLIPS: Yes, we had it laid out in districts some time back. This particular plan here applies to the overall gas tax part of the money that we have that we could put into this particular location. We share it on the basis of the number of miles of county roads and improved highways inside the city and in the county area, and on that ratio as the cities expand they will receive an increasing amount of money to take care of the increasing amount of roads. These priorities are set up over a period of years and they are set on the straight matching fund concept which has been working out very nicely by the way.

After two and a half years of pretty hard work, we have developed in our committee, of which I happen to be chairman, and which is made up of members of the League of Cities, the Board of Supervisors, the State Pest Control Division of the Health Department,



the Agriculture Commissioner, a member of the Farm Bureau appointed by them, the County Counsel, the District Attorney, and the Attorneys for the cities and for the poultrymen and dairymen, a countywide fly control ordinance which will be, we hope, adopted by the cities as a complete picture countywide. We passed that ordinance unanimously last night. Since our Health Officer does work as the Health Officer for all the cities, this makes the follow-up very easy and very economical, plus the fact that we have to put into this particular plan a hearing board and a ten day appeal. They do have now the right to enter and the right to correct these offenses against, let's say, public nuisances and so forth. It will work, we think. It should be constitutional, it seems to be, and thank God, we can at least get down to the point now where we can do something about this. It has been a fantastic problem because, of course, you had the poultry ranchers and the dairy farms there, and houses built right up close to them, and the first thing they start to shout is, how soon are you going to move this dairy ranch out of here, or this poultry ranch? This happens quite often and I am sure that it doesn't happen just in Orange County alone. I am sure it happens in all counties.

However, to carry on with the presentation, we have just approved a master plan of air space for the County of Orange by which the County is working with the Lockheed Air Terminal, Inc., the State Board of Aeronautics and the Department of Engineering in developing a complete master plan of air space which will be coordinated with all the counties in the southland and the FAA. This master plan will include not only the major fields but also the satellite fields,

emergency landing strips, and a complete coordination investigation as to mass rapid transit and to the problems of getting to and from the airports, as I am sure all of us are very familiar with. Just to illustrate these particular problems, Orange County has grown in excess of 385 percent since 1950. Los Angeles County has grown the same percent in population, so our problems are uniform. We do work out air pollution problems with all the counties around us and with the cities and I happen to be president of the Southern California Air Pollution Coordinating Council which is made up of all the counties in the south. This entire picture has been coordinated with us. We are sharing our information on all of our data which does bring, I think, some economy into the overall picture.

I will say one thing to actually sum it up. Our presentation here was not to tear anybody down and we don't intend to. We can fight our own problems at home and they have been very well handled because we are trying to actually cooperate with the cities and the County together, and it is working out very nicely. We do have some problems that you have already heard that can be worked out but I would say this that there are certain items that concern us all. The County of Orange does furnish all police and fire radio, all the emergency radio for all the cities and special districts in Orange County. We install the sets, maintain them and run the entire system. Here, of course, the cost differential is fantastic, and these are points, I think, that the cities and the counties can work together on very closely. I would like to give you the Stanford Research Report which was our base study to start all of our studies

on, from 1940 to the year 1980. (On file in Sacramento.) This is given to stress the one point that we are planning for the turn of the century in everything that we are doing at the present time.

I would like to present our Oil Code Report on the development in Orange County (on file in Sacramento). Thank you very much for your courtesy.

BRADLEY: Mr. Phillips, there may be some questions. First of all, any questions from members of the Committee?

GEDDES: I would like to ask a question to make sure that I have got clearly in my mind your proposal as to the transfer of territory by means of an incorporation to a city, especially in view of the fact that particularly in Orange County many of the school boundary lines were established at least early in this century, if not prior to that. If I understood you correctly, you said that when a part of a school district is included in a city annexation, it now belongs to a new school district and that it would be liable for its share of existing school bonded indebtedness but should not assume any liability in the new school district to which it is annexed. Is that correct?

PHILLIPS: Well, it wasn't quite that way, sir. You will have these occasions happening very very often; for example in West Anaheim, the boundary of Anaheim and the unincorporated territory were very close and the two school districts overlapped in this particular spot and then a school was built in the middle of this area where on three sides they were in the Centralia School District and on one side they were in the Anaheim School District. Well, the mothers

from those houses around naturally started screaming right away, why can't Johnny go to school right across the street? Even though you are in that separate school district, under the law you can ask to be annexed. You can make your approach and deal with the Board of Supervisors after you have gone through all the rest of the procedures. Most of the school boards, the school superintendents, and the county superintendents, do not seem to be willing to make a decision. They say that unless there is complete agreement and trading of property between these two school districts that they will not countenance any transfer of property. The final decision always comes to the board of supervisors to solve this one point and the question that I was proposing at that particular time was, should the property at the present time in this transfer lose all bonded indebtedness?

GEDDES: All right, that property would carry that bonded indebtedness even though the inhabitants of that property may not have the right under existing school law to use a school that is in the section from which they came.

PHILLIPS: Frankly, as far as I am concerned, it could be worked in one of two ways, Mr. Geddes. I would say what you were driving at would be the fact that they would lose the bonded indebtedness for the old school district and assume the bonded indebtedness of the new district. That would also be fair, but I don't believe in this point of losing all of the bonded indebtedness and getting out scott-free.

GEDDES: I don't think we do either and that is why I wanted to clarify it. I want the Committee to check this in relation



to all the different problems that we had relating to it, because I would make this statement here that the Education Code provides that any group of people may constitute a school district, whether it be a new one or a splinter from an existing school district. Under the different methods provided, we can't very well make a flat statement here because we may be talking about an elementary school district, when at the same time the same problem may exist with a high school district, or unified district, or a union district, or any of the other numerous kinds of districts that we have. The people in the school district involved would have to have a voice or else their voice would be extinguished by the voice of a city that decides to make an annexation.

PHILLIPS: What I would like to do on this, if I may, if it would be of any assistance to you, is to let you have the complete files on this.

GEDDES: I would appreciate it personally because I think you have a point. We recognize it and we often rattle it and it might be that an alternate provision somehow could be worked out. I can envision right now, if I understand your point correctly, a great many counties and school districts in California where this would not work out. I think you have a very good point but it is one that we need more time than we have available this afternoon.

PHILLIPS: That's right. I would be very happy to send you the files on this as soon as I get back.

BRADLEY: I have just been handed a copy of an opinion from the Los Angeles County Counsel's Office under date of March 4,

1959, which bears on this subject. I will just read it in part. It says, "In the event uninhabited territory within the, well say, the XYZ Union School District is annexed to the City of Los Angeles, and in the event the action results in the transfer of such territory from the XYZ School District to the Los Angeles City School District because of a statement to that effect and a resolution required by Govt. Code Section 35306, a territory so transferred will continue to be liable for its proportionate share of the outstanding bonded indebtedness of the Union School District".

PHILLIPS: That's a union school district, yes. But that is the only one that falls out of that category according to my understanding. We asked for an opinion from both the Attorney General of the last term, Pat Brown, and from the new A.G., Mr. Mosk, and also I had asked for opinions from the County Supervisors' Association and from the State Board of Education, and the point was, as it came back to us in the last three months, that this opinion that they had given us before still held true, except in the cases of union school districts.

BRADLEY: Are there any other questions? May I ask you just one question? Do you have very much in the way of new incorporations going on in Orange County?

PHILLIPS: The last city to incorporate was Westminster and there were attempts which lost in Yorba Linda and in the Los Alamitos area. We also hear of a possible incorporation movement in the Rossmore area. We do have our problems of course.

BRADLEY: How many incorporated cities do you have in Orange County?

PHILLIPS: Twenty-one.

BRADLEY: And that's an increase of what in the last ten years?

PHILLIPS: Sixteen, possibly.

BRADLEY: Sixteen in the last ten years is quite a few incorporations.

Any other questions? If not, we thank you very much, Mr. Phillips, for your presentation on behalf of Orange County.

PHILLIPS: Would you care for any more copies of these presentations? You have my card, I take it.

BRADLEY: I think we have it but leave it on the basis that if we find we do need additional copies, we will get in touch with you.

PHILLIPS: I will be glad to send them to you. We will send you that copy of the bill on the incorporations.

BRADLEY: Thank you. Mr. Hegland?

HEGLAND: Since this question has been raised again, and just for the record, let me say that in the Joint Committee for Revision of the School Education Code we had examples where portions of one school district depending on the type of district it is, can go in either, assuming the bond and retaining the bonds, or going scott-free, or retaining the bonds and not assuming bonds, or assuming bonds and not retaining bonds. Therefore I would question any overall statement, unless it were qualified, as to the type of district which was left, the conditions, the procedures, and the type of district that was to be entered. It is a very complicated subject and the Joint Committee for the Revision of the Education Code plans to

make a uniform procedure so that one system will apply as far as bonded indebtedness goes.

PHILLIPS: Wonderful.

HEGLAND: Thanks.

PHILLIPS: Thank you very much. I would like to say this one thing that we do have the problem of course of many of the school districts not particularly caring about the bonded indebtedness, being more interested in the immediate dollar at hand, which is your property tax dollar.

BRADLEY: You brought up another question here. You were present this morning I think when the County of Los Angeles made its presentation?

PHILLIPS: No, I arrived later than that.

BRADLEY: Do you have some of these annexation problems of shoestring type procedures and creation of islands?

PHILLIPS: Yes, we do.

BRADLEY: Do you generally have, and this is just for the record, all of, or similar problems, that are outlined in the presentation made by the County of Los Angeles in both incorporation shapes and sizes, procedures and annexations?

PHILLIPS: Any of your shoestrings do cause problems. We have at least six of our cities that presently look like octopuses on the map with arms going in every direction like this. One has an arm at least three and a half miles long which leads to a research center and some industrial property, and on both sides is county and at the other end it is county.



BRADLEY: Then your problem in Orange County has been typical of Los Angeles?

PHILLIPS: Yes, it has been typical of most of the counties.

BRADLEY: Thank you very much. Now may we hear from Mayor Cox of Pomona?

MAYOR ARTHUR H. COX, Pomona: I am Arthur Cox, Mayor of the City of Pomona. Mr. Chairman and gentlemen of the Committee, we very much appreciate the opportunity of appearing here today and discussing a subject quite different than has been before you today. This pertains to the annexation problems adjacent to county boundaries. I might say that we have been requested to submit a report on this subject by your committee and also by our good Assemblyman, Ernest Geddes. I am sure also that Mr. Nisbet, our neighboring Assemblyman from across the county line, is quite familiar with this particular problem, particularly as it has come up in relation to a specific item to which I wish to make reference today.

I would like to introduce Pomona's City Administrative Officer, Fred Sharp, who will assist me in this presentation, and also we have a guest who is with the City of Pomona for a period of eight weeks from Pakistan, under the International Cooperative Administration, and he is here with us today, Mr. Mosharraff Hossain.

BRADLEY: We are very pleased to have you present.

COX: I might say that Mr. Hossain is the second gentleman whom we have had the opportunity of having with us from Pakistan, and we have certainly been greatly impressed with the quality of personnel that is coming over to learn something about local government in this area. I will now read my statement.

A REPORT TO THE ASSEMBLY INTERIM COMMITTEE ON MUNICIPAL AND COUNTY  
GOVERNMENT

by

Arthur H. Cox, Mayor, City of Pomona  
(San Diego, January 14, 1960)

A CONCISE CONCLUSION OF THIS REPORT: CLEAR AND POSITIVE LEGISLATION TO ALLOW FOR THE NORMAL AND ORDERLY EXPANSION OF CITIES ACROSS COUNTY BOUNDARY LINES IS AN URGENT NECESSITY TO AVOID EXCESSIVE COST, CONFUSION, DISRUPTING INFLUENCES AND BLIGHT IN AREAS ADJACENT TO COUNTY BOUNDARIES AND TO ENABLE LOCAL GOVERNMENTS TO EXPAND ESSENTIAL MUNICIPAL SERVICES IN AN ORDERLY FASHION AS GROWTH TAKES PLACE.

A. Introduction

This paper is presented to reinforce the plea to the State Legislature made by the City of Pomona before the Assembly Interim Subcommittee on Annexations and Related Problems at its Hearing in Los Angeles on December 11, 1953. An outline of this report presented in 1953 is attached to my remarks and labeled EXHIBIT A.

EXHIBIT A.

REPORT ON THE ANNEXATIONS TO CITIES OF  
UNINCORPORATED TERRITORY LYING WITHIN AN ADJACENT COUNTY

by

Frederick W. Sharp, Administrative Officer, Pomona, California  
Submitted to Assembly Interim Subcommittee on Annexations and  
Related Problems. (Los Angeles, December 11, 1953)

A CONCISE CONCLUSION OF THIS PAPER IS AS FOLLOWS: GROWING CITIES LOCATED ADJACENT TO COUNTY BOUNDARIES SHOULD NOT BE PRECLUDED FROM EXPANDING NORMALLY AND EXTENDING THEIR BORDERS INTO ADJACENT COUNTY TERRITORY TO PROVIDE NEEDED AND DESIRABLE MUNICIPAL SERVICES. CLEARLY DEFINED LEGISLATION SHOULD BE ENACTED TO PROVIDE FOR A LOGICAL SOLUTION TO THE PROBLEM.

A. Outline of Main Points Presented:

1. With the rapid urbanization of California, the problems of cities which are adjacent to one or more county boundaries becomes very acute.
2. The lack of clear legislative policy to provide for annexation as it becomes desirable is creating difficulties and confusion.
3. County boundaries should not preclude the possibility of a city developing normally and protecting its frontier and areas of influence in any direction in which it is growing.
4. County boundaries in many cases are historic accidents, therefore undue importance in modern times should not be attached to them.
5. A city is a live, energetic corporation brought into existence and expanded because of its ability to render service to people in an urban environment. Its boundaries should logically be determined by growth and natural barriers such as rivers or terrain and by its ability to render municipal services to surrounding areas which are becoming urban.
6. Without accepting this premise, that natural causes should determine where and how a city grows--not arbitrary county lines, the city growing adjacent to a county is foredoomed to a sub-standard fringe area indefinitely over which it will have little or no control. In actual practice, the county boundary becomes worse than a Chinese wall, causing blight and unsoluble problems along its extension.
7. The problems of topography which acutely affect drainage, sewage disposal and connecting roads are interwoven between the city and the rural areas regardless of county boundary.
8. Without a city being able to cope intelligently with the urban problems adjacent to county boundaries, haphazard and uneconomic use of land follows which breeds blight and poverty, causing a menace to the health, safety and welfare of all inhabitants whether they reside in the city or the adjacent area in another county.

B. Suggested Methods to Remedy the Situation:

1. Enable the changing of a county boundary by a simpler process than the cumbersome and impossible legal mechanism that now exists.
2. Provide positive enabling legislation to allow a city to annex contiguous territory in another county to insure the city's

proper growth and expansion and enable it to plan for growth and provide municipal type services upon such annexation.

C. Conclusion:

1. If simple legislation was enacted to allow a city to annex territory in another county, the problem would be solved with little difficulty.
2. Eastern cities often lie in more than one county and they have overcome legal annexation technicalities to meet practical situations of growth.
3. Positive legislation would destroy the bugaboo now associated with county boundaries and enable a healthy normal expansion of cities and city services to meet urban needs as they are required in a sensible and efficient manner.

MAYOR COX continues: At that time Pomona, a city incorporated adjacent to the Los Angeles-San Bernardino County boundary line, faced problems of growth astride the Los Angeles-San Bernardino County boundary. These problems were compounded by the fact that the county boundary not only severed private property, but its straight diagonal ignored such topographical features as street systems, flood channels and the problems of urbanization.

The failure of the Legislature in 1953 and 1954 to face up to the reality of the problems of urban growth adjacent to county boundaries has--during the past five years--led to serious problems involving State, county and municipal governments. (1) After the 1953 hearings, legislation to allow a city to lie in more than one county was introduced into the legislature by Assemblyman Ernest R. Geddes of the 49th Assembly District, but it received little support by the Assembly Committee on Annexations because, in the words of the chairman, "It was too much of a political hot potato" and it would be too difficult to reach a solution.

The Cities of Pomona, Montclair and Palo Alto have been involved in extensive and costly litigation relying on the Courts to make interpretations and decisions that would have never been necessary if adequate legislation with respect to county boundaries had been written. Other cities of California, such as Los Angeles, Long Beach, Watsonville, and others, are facing difficulties due to the proximity of the county boundary and built-in frictions will break out as growth continues.

B. The Pomona Situation

To give the members of your committee one example of how serious a boundary problem can be, I should like to cite the Pomona situation involving the Sears Roebuck Department Store. The last remaining



open land with sufficient acreage to establish a large shopping center in the desired area was bisected by the Los Angeles-San Bernardino County line.

The main sales building of the Sears store, when it was constructed, was diagonally bisected by the county line, with 45 percent of the building being in San Bernardino County and 55 percent in the City of Pomona and Los Angeles County. Difficulties arose almost at once with regard to plan checking, building permits, health permits for restaurants; all required conferences and arbitrary administrative decisions because of the bisecting county line. Only the City of Pomona could provide sewage disposal due to topography and water supply to meet fire needs. Continuous problems have arisen almost daily with regard to police and fire protection. Accident investigations, apprehension of shoplifters, etc., all presented confusing problems and legal difficulties.

The problems were compounded by further urban growth along the county line and then the City of Montclair was incorporated as a city within San Bernardino County with a coterminous county boundary with Pomona. So now four agencies of local government--two counties and two cities--were administering local governmental needs to the Sears Center.

One problem that could not be reconciled was the sales tax. The two County Assessors had arrived at compromises with respect to the property tax, but how to split the sales tax was a problem that the city councils could not agree upon after numerous meetings, luncheons, good-will dinners, and all. The State Board of Equalization had no solution to the problem, and as a matter of fact stated that they were not in a position to resolve this problem, and so the matter went to Court and has been in the Courts for nearly three years - and is still there. The State Supreme Court in December 1959 rendered its decision after the matter had been in the Trial Courts and the Court of Appeals for almost three years. I might add that the poor judges didn't know how to lick the problem any more than the cities did nor the State Board of Equalization because of the lack of a clearly defined law or basis for decision. Their percentages of sales tax ranged from 55 percent to Montclair to 87 percent for Pomona. As of January 9, 1960, the City of Montclair has appealed the last Supreme Court decision and has asked for a rehearing.

Throughout the years of dispute neither city has received a nickel in sales tax from Sears to defray their respective costs of government as the funds have been impounded by the State Board of Equalization. These funds now total nearly \$400,000.00.

While all this may have a note of humor on the surface of it, there has been tragedy, wasted effort, cost and repercussions that can only undermine the cause of local government.

Pomona has paid out directly to legal counsel the sum of \$10,449 as of June 1959. We assume the cost to Montclair would be very similar. The real costs to the people of California - represented by the time

wasted in the courts, the time of legal counsels of the cities and the County of San Bernardino, the cost of Exhibits and expert witnesses, the time of the State Board of Equalization officials, etc., would bring the cost amount many times over the direct monetary outlay.

Another tragic consequence of the dispute lies in the fact that questions involving the statewide administration of the Bradley-Burns Uniform Sales Tax Act had to be brought into the action that could have raised serious issues involving all of the cities of California and the administration of the Sales Tax Act by the State Board of Equalization.

Both the Palo and the Pomona litigation would have been unnecessary if the late Legislature had faced up to the reality of the situation in 1953 and 1954, providing leadership instead of relying on the Courts to make the law in the face of the legislative vacuum of uncertainty.

C. The Laws and Practices of Other States with regard to a City Annexing across a County Boundary or Incorporating in One or More Counties.

Many States have recognized the necessity for an incorporated urban area to grow and expand without regard to county boundaries. And unlike California, in the Palo Alto Case (County of San Mateo vs. City Council of the City of Palo Alto, 335 Pacific 2nd, 1013), in the absence of specific legislation, the courts have recognized the validity of a city's right to annex urban areas regardless of county line. An authoritative treatise just being published by the American Municipal Association entitled "Adjusting Municipal Boundaries, the Law and Practice in 48 States" is very helpful as a reference.

A few examples cited from this treatise bear out the fact that other states are not confounded by historic county boundary lines. In Missouri - A Kansas City's annexation was held to be "reasonable" even though it took in 17 square miles across the river in another county. (In State ex inf. Taylor ex rel. Kansas vs. North Kansas City (360 Mo. 374, 228, S.W. 2d 762 (1950) (Pg 187B)).

A City of Joplin annexation was held valid when it proceeded to annex adjacent land even though the annexation was across a county line. (Schildnecht vs. City of Joplin (226 Mo App 47, 41 S.W. 2d) (Cited Pg. 189)).

In Nebraska - Corporate limits may be extended over unincorporated contiguous territory, subdivided or not, whether or not the municipality is situated in two or more counties, and whether or not the territory is situated within or outside counties of which the municipality is a part. (pg. 202).

In North Dakota - Cities or villages may incorporate areas "where such territory is located in one or more counties" which clearly

infers that annexation would be allowed across a county boundary. (Pg. 229).

In Ohio - As long ago as 1860 it was decided that even territory on the opposite bank of a navigable river is "contiguous". If the territory to be annexed is situated in a county other than that in which the municipality, or some part thereof, is situated, the annexation proceedings shall be in the county in which the territory to be annexed or some part thereof is situated. (Page 240).

In Oklahoma and Washington - either by direct Statutes or Court Decision, annexations of a city into another county have been accomplished facts.

It is interesting to note in the report just cited that the need for modernization and simplification of annexation laws is shared by America's Municipal leadership. A table presented on Pg. 37 of the report shows that "96 percent of the Secretaries of State Municipal Leagues endorse a reform which has heretofore engaged comparatively little attention, and has often gone by default--the simple expedient of allowing annexations to cross county lines so that 'municipalization' may not be balked where 'urbanization' may and does proceed freely."

#### D. County Boundaries have Often been Historic Accidents

The history of county boundaries of California is a most colorful one, largely because of the inaccuracies of the boundaries, the trouble they caused, and the fact that surveys often did not carry out legislative intent.

Los Angeles County is no exception in this regard. The original boundary in 1850 was general in character and much of the description had to be guessed at.

The eastern boundary of Los Angeles County, which is also the eastern city limits of the City of Pomona, was mislocated in the boundary survey of 1876 and instead of surveying the Cucamonga Ravine, which was the correct boundary, the survey party surveyed the San Antonio Wash, two miles to the west and established the boundary at that location. "A comparison of the records of this survey, together with the legislative acts upon which it was presumed to be based, shows a careless disregard for the legislative intent, probably due in part to difficulties in identifying the places named". (City County Boundaries, Pg. 143, Owen C. Coy, Ph.D., Director of California Historical Survey Commission, Berkeley, 1923.)

The main thought I wish to impart is that no one should put a "halo" around California's nineteenth century county boundaries that were drawn without regard to topography, fact, or reason, and certainly not with modern concepts of urban growth in mind. The very seeds of



present and future discord have been sown in these boundaries and they must not be worshipped but rather modified to meet modern problems caused particularly by urbanization.

#### E. Possible Remedies

To conclude this paper by merely pointing up the problem would not serve a positive purpose. Legislative action is needed and needed badly on two fronts:

1. First of All: If we assume as a major premise that a city is a creature of the State and not of the County in which it happened to originate, then cities should be allowed to annex contiguous urban areas in more than one county. As in other States, incorporated cities should be allowed by clear and concise legislative policy to annex over a county boundary so that modern and economical municipal type services can be rendered.

The California Court of Appeals in the Palo Alto case pointed out "practical difficulties" with regard to such matters as "judicial districts" and "in which court would a city be sued", if cities annexed into another county, etc. These are ridiculously simple to work out by changing the way and easy in comparison to the problems that are faced by such tangible and serious matters as handling flood problems, sewage disposal, streets and highways, where a boundary line cuts across country, severing creeks, private property and streets and highways at promiscuous angles.

2. Secondly: The Legislature or the Governor could appoint a master or referee operating through a boundary commission to suggest minor modifications to county boundaries so that such boundaries would follow along logical lines such as the center lines of streets or channels or natural drainage areas. This would avoid the ridiculous situations now facing local jurisdictions in trying to reconcile problems arising from boundaries that are drawn in a straight line "between a pile of rocks and the blaze on a spreading oak tree".

#### F. CONCLUDING REMARKS

The problems of urban growth are vast and complicated. The laws regarding incorporations and annexations must make sense if we are going to be able to live happily in metropolitan areas. Simplification and modernization of laws affecting annexations and incorporations are necessary. Some flexibility must be introduced into the law to enable adjustments under carefully worked out procedures.



I have purposely spoken on only one problem which seriously affects the future growth pattern of Pomona and several cities of California. Your Committee will hear of many more annexations and incorporation problems of cities throughout California which involve cities lying wholly within one county.

The most important suggestion I can give is to keep working in cooperation with the municipal and county leadership in this State until a fair and honest framework of incorporation and annexation laws are evolved. The cities and counties must look to you for leadership and statesmanship on the State level to make such legislation a reality in the near future.

MAYOR COX continues: I would like to make some further reference to the maps on the wall and also a reference to another publication which contains a considerable amount of history of annexation, laws and boundary problems. This is a publication entitled, "California County Boundaries" by Owen C. Coy. On the large map to the far left showing the City of Pomona, Los Angeles County, I would like to point up one of the problems that exists along the city boundary where the jurisdiction adjacent to it is completely outside of any control when it is in a different county. There are several rather blighted conditions existing there. Mr. Sharp, would you refer to those and cite them?

FRED W. SHARP, City Administrator, City of Pomona: Yes, Mr. Mayor, I would be very happy to. This is the map presented to the legislative committee in 1953 showing the City of Pomona, Los Angeles County boundary, and the unincorporated area of San Bernardino County. Adjacent to the Los Angeles County boundary, the map shows auto wrecking yards, excavations, plumbing and welding yards, blighted residential areas, stock feeding yards, run-down wrecking and storage area, and other stock yards, and all of this area is unable to urbanize properly because of its inability to get municipal type services.

COX: Fred, would you point out the alignment of the San Antonio channel? Of course it is changed somewhat by the final alignment construction by the Corps of Engineers.

SHARP: The San Antonio Channel runs directly from San Antonio Canyon down along the line practically parallel to the county line but then crosses the county line in the vicinity of the Southern Pacific and Union Pacific railroad tracks, running into Los Angeles County and then running again out of Los Angeles County in the southern section of Pomona at Philadelphia Street and following down toward the Prato Dam.

MAYOR COX: I would suggest that a commission or a referee that would have the right to either make a decision or to investigate and recommend the modern reallocations of county lines such as along an improved channel that has now been made of the San Antonio Wash would be more realistic than the type of boundaries that we have now where they cut across property and cut across all types of utility services. In discussing this with utility people, we find that they are as much concerned about these problems as we are in the cities. Looking further south into the Pomona area, I would like to show the boundary as it goes down the easterly side of Pomona which is the Los Angeles-San Bernardino County line, extending on south to where it arrives at a southerly point and then the boundary line of San Bernardino County extends westerly and south from that point and as we go through on that particular area again, we see where the boundary lines have been made as nice straight lines. However, they do ignore geographical conditions which are significant

and would be more feasible to use in establishing or re-establishing county lines. In that particular case you have a heavily traveled highway, Riverside Drive, and yet this boundary line, instead of following a highway as a reasonable boundary, cuts diagonally across various private properties and an intersection which is extremely bad in that particular area, which everyone thinks is in Pomona but it really isn't; it is just south of our town and in the county. You can see some little islands of territory there which are private property that cannot adequately be handled and served by the other jurisdiction, in this case San Bernardino County, but certainly should be within the limits of the City of Pomona. I would suggest too that the thought which has been extended and which I know your Committee is considering concerning the need for not only establishing more concise laws that will help resolve the problem, but to establish an authority or a commission that could make decisions and apply the laws to their findings, would certainly be endorsed by ourselves as being reasonable and necessary. I personally have thought in terms somewhat of the county boundary commission having greater authority, but of course it has been pointed out that this has its problems because of the political relationships and problems that exist there. Possibly the formation of such a commission with the necessary authority as a State agency is necessary. As you know, however, we of city government are always trying to protect the home rule so when you talk about forming a State agency, we become a little bit frightened. However, something definitely needs to be done in this particular area and the problem that we have pointed out today

is just one of them. Some of these others, such as these octopus boundaries, are even more obvious and more ridiculous.

Oh, yes, we have another little mark-up here I would like to pass around that points up this particular item that we referred to in this south section of Pomona and in the edge of San Bernardino County. It shows a county line running along this particular tangent here. As a result of this, all of the drainage problems come from this point in the other county, on down into the city, and we receive the results of all of the drainage from this area which is in another county. The same thing is true over in here. Now there should be a more logical way of establishing boundaries than some of the boundaries that currently exist. I realize that it is a great problem to change county boundaries but it has been met and can be met in the State of California, I am sure.

BRADLEY: Mr. Holmes.

HOLMES: Mayor Cox, I would like to get back to the problem of the Sears store there. Did not this ugly monster that you are talking about raise its head when it came to the issuing of permits for the building of the store?

COX: Yes, it did.

HOLMES: Couldn't that have been rectified at that time by changing the location of the building?

COX: We tried, Mr. Holmes, and the very best we could, to get Sears to locate all of their buildings within the Pomona area and within the area of Los Angeles County. However, they had acquired certain specific property and this is only a part of a large shopping



center. They said they could not possibly and feasibly place all of that building within our boundaries as it was a piece of property that they had bought under single ownership and they felt they should have the right to locate, even though it did happen to straddle the boundary.

HOLMES: There is one other question. As I understand it, where the boundary line comes through, that one part is in Pomona; then the other part is where?

COX: It is in what is now the City of Montclair in San Bernardino County.

HOLMES: Well, I can't understand why you should have so much trouble on sales tax. That might sound like a silly statement for me to make but let me point out to you that about two years ago the Board of Equalization issued an administrative order that the sales tax shall be paid in the county where the purchase is made; in other words, if you write in to Sears and Roebuck on a mail order basis, that is, if you live in Santa Barbara and you write to Los Angeles to order stuff, you then pay the sales tax in Los Angeles. If you write to Oakland to Montgomery Ward from Santa Barbara, you pay the sales tax in Oakland. Now it would be a very simple matter where that county line goes through the Sears and Roebuck store for the departments on the Pomona side to receive the sales tax because the sales tax is paid in Pomona, and if the sale is made on the other side, in Montclair, then the sales tax paid on that side should go to Montclair. All Sears would have to do is designate in what part of the store the sales were made. They already have their stations

made up in the store and so where they receive the cash and where they make out their charges, those departments would be enough to designate as to who gets the sales tax, and there would be no trouble at all as far as the percentage or anything else goes in dividing it up.

BRADLEY: Mr. Holmes, it may be that that would be satisfactory to Pomona but maybe it isn't satisfactory to Montclair.

HOLMES: Well, it isn't a question of whether it is satisfactory to either one of them; it is a question of the way the law is written and the way it is handled by the Board of Equalization in accordance with their rules as to where the sales tax is to go and as to where the sale is actually made.

COX: This is one of the points that needs correction, I think, insofar as the responsibility and the authority of the State Board of Equalization goes. They refuse to attempt to delineate how the taxes should be divided.

HOLMES: Now wait a minute; we are talking about two different things. They are talking about how it should be divided and what I am talking about is where the sale is made. They have already made that decision that the sales tax shall be paid at the point of origin of the sale. The statement that I make is not concerning the division but in actuality where the sale is made; there is your difference.

COX: What you are saying is exactly what the State Supreme Court has finally resolved and Pomona is happy. However, I will say this that for three years and through two original trial courts and

an Appellate Court there were differing points of law advanced and different decisions rendered, so it isn't clear cut and what you have said is exactly what the final decision of the Supreme Court was. Nevertheless, the controversy is there and this is only one of the problems. This happens to be the big dollar problem but there are a lot of other problems that I have pointed out in reference to such a bisection of private property.

HOLMES: Mr. Mayor, is this the sort of a case where home rule is fighting home rule and both sides are a little greedy?

COX: Yes, that's right and this is a case where I think the State Board of Equalization should have had the responsibility and right to make some decision but they felt they did not.

BRADLEY: Mayor Cox, before I call on Mr. Britschgi, I would like to make a very brief introductory remark. Mr. Britschgi represents the southern half of San Mateo County. He has a city in that area which has been very anxious to annex into Santa Clara County. We have been quite concerned about that ourselves; so naturally he is interested in this and probably will be somewhat in favor of this, along the line that you are presenting here in your case.

COX: Yes, sir, I knew that Mr. Britschgi was interested and I think that you are familiar with that too, Mr. Bradley. I say as a matter of fact that we have suggested that the City of Palo Alto might like to come down today and participate in this presentation but they weren't able to do so.

BRITSCHGI: Mr. Chairman, the one thing that disturbs me on this whole program is that I think when the building permits were

given out and while you do give an explanation of why the building was placed there, it would seem to me that someone in your district, I don't know whether you were on the Council at that time or not, but someone should have resolved your differences before your building was ever put up in the location that it happens to be in at the present time. I think that even if we moved the boundary line over to the east of the flood control area you would probably run into the same darn thing over there a little bit later on. I am just afraid that you are asking us to move boundary lines to correct some weaknesses in your own home that could have been solved possibly before this ever happened. The thing that disturbs me a little is that when you say that you should line the boundaries up with some point other than the one that was originally designed for each of the 58 counties, then we are going to be checkerboarding all over the State every year so far as legislation is concerned in moving boundary lines.

COX: Well, I would say that this shouldn't be done as a project whereby you are going out and realign all boundaries, but it would be done upon request when a particular problem arises.

BRITSCHGI: We have a problem, just for example, in San Mateo County in the northern part of the County where the City of San Francisco would just love to annex all of the San Francisco International Airport and the Crystal Springs area where they have their water supply. If they did that, why San Mateo County might as well fold up and go home and go to bed because there is nothing left to it. Then Santa Clara County, just the opposite to what the good



Chairman told you, is trying to come over to the other side of a natural boundary, a creek area, which divides the county. So we do have some problems and I am very interested in what you have to say.

COX: Well, actually, as I pointed out in the final recommendations in my report, there are really two things involved, each of which can help resolve the problem. One is to facilitate and make it easier to annex across county boundaries, and I think this Palo Alto case, that is, the San Mateo-Santa Clara County case, is a case in point. I understand that they finally gave up on the idea of annexing across the county boundary as we have done in this particular territory even prior to the incorporation of the City of Montclair. Therefore, we are really talking about two solutions and I realize that the relocation of county boundaries is the more difficult, but the simplification of annexation across county boundaries has been resolved in many states throughout the country and should be made simpler here in the State of California.

But I would like to comment to this point concerning the controlling of building permits and development of property. When you look at that map and see that it does not follow property lines, that it does not follow a meridian line, that it does not follow roadways, that it does not follow a channel, but that it cuts diagonally across hundreds and thousands of private properties, then the owners of all those private properties feel that they have the right to develop this piece of property which they own and not have to build around a particular line.

BRITSCHGI: May I ask one question? Mr. Mayor, what was there first, the streets or the county boundary lines?

COX: I would imagine that the county boundary lines were there first.

BRITSCHGI: I would think that probably would be about right.

COX: But I would say that prior to the county boundary line there would have been property ownership lines which preceded the location of county boundaries.

BRITSCHGI: I would think a little bit further than that; I think that some of our problems earlier today could have been resolved with a proper planning organization within the various counties so that you wouldn't have streets intersecting the way they do, and I think that you could almost make them terminus with the line. Isn't that right, Fred?

SHARP: Not quite, Mr. Britschgi. I might state that this county boundary line across the southern section here goes right out through the valleys and the mountains, and it would be impossible for any type of a road system to develop with it. Actually, as far as our contention goes, these minor adjustments in the county boundary, that is, just to follow the center line of streets, would eliminate the necessity for two health departments, two assessors offices and two police departments, or one police department and a sheriff's office, all working in this little area. There is a major street that runs right down alongside the eastern side of the Sears Shopping Center. It would be a wonderful divider and this could have all been accomplished long before Sears was there, and we anticipated it by this presentation before the legislative committee of 1953. There was no Bradley-Burns sales tax then; there was no Sears and Roebuck in that area, but we saw the growth along there that caused all these enormous problems because of topography and because of the

inability to actually sewer whole sections. We will never be able to sewer certain sections along this boundary here unless the system goes into Pomona because of the topography, unless you build expensive pumping stations and pump it back somewhere into San Bernardino County. These are some of the problems and it is just a question, I think, of basic reality in making the boundaries conform to reality that exists in the 20th Century.

COX: As a reference to a commission which has worked quite successfully on boundaries in times past, I believe that there is a United States-Canadian Commission that has worked and resolved the problem of boundaries between the two countries of the United States and Canada. I also believe, and I am sure you gentlemen are more familiar than I with the fact, that there has been considerable amount of negotiation and supposedly some conclusions are to be reached on realigning some of the boundaries between California and Arizona. So certainly it is not impossible.

BRADLEY: We have several other questions here. First, Mr. Nisbet, do you have a question?

NISBET: Yes. Naturally, as you know, I represent the 72nd District which is that district just east of the Wash there that you pointed out as being so decadent and in such bad shape. I think that you have two problems here; I don't think that your sales tax problem, which is a monetary problem, is going to be settled by county lines at any time. Your city lines are the ones that will determine that and, of course, if you had been there the first with the most, you would have been able to go across county lines and you wouldn't have had

the problem of Montclair. However, you might have had it in some other place because this could happen at any time that when cities are adjacent, buildings may be erected right on the line and there is nothing to stop it unless there does happen to be a street. As far as the original alignment of the county lines are concerned, they tried as near as possible to form a line down a varying Wash that would switch back and forth across there, and I think it follows pretty closely. San Antonio Wash may have not been the intention; you may have made a mistake in your map and picked that instead of Cucamonga, I don't know as to that. I think that the Wash line was probably the most natural line at the time, as long as there were no streets to follow, and I don't know how we can adjust from these natural barriers throughout the State to artificial barriers, or artificial roadways. I think it would cause a vast problem.

COX: I certainly would agree, Mr. Nisbet, about the logic of the Wash being the boundary and I am sure that that was the intent. Of course, as you pointed out, it was a rather meandering line that the Wash followed. Now, of course, there has been a permanent channelization in the form of a concrete channel put in by the Corps of Engineers. There could be a minor adjustment at this time to follow even the original intent as far as the water flow alignment is concerned, if it is feasible to make minor adjustments.

NISBET: Well, if you would do that, then you would have to again interfere with the boundary lines of the present incorporated city and alter that. It would take a lot of adjustment. I remember when this shopping center was developed, Pomona was very active in



the formation and knew where it was going. I don't know whether you were the one who was in authority then or not. I don't know whether you did it with the thought that perhaps you could accomplish this boundary change of the counties at the time and anticipated that or what your thought was, but you certainly knew where it was going, and admittedly the area to the east was not fully developed. However, the edge of a county area as large as San Bernardino is likely to become neglected because it crosses the Wash, but now in our slow way we are developing and no doubt will meet the San Bernardino County line. Ontario, no doubt, will come up from below and Chino will come up and meet you. We will all have solid city lines eventually. Our problems may multiply but this one will disappear.

COX: I wouldn't want the idea of changing county boundary lines to overshadow the fact that what we attempted to do was to suggest changes in the law of 1953 to allow an easier annexation across county boundary lines. I don't think that members of this committee would object to annexation across county boundary lines. I don't think that there has ever been a real objection to this procedure except that it was considered to be too difficult, but it is being done in States throughout the country and there are the same reasons for it to be done here as have existed elsewhere.

BRADLEY: Well, Mayor Cox, I take it that the intent of your presentation is that the law should be changed to make minor adjustments, and that you are not trying to get into the wholesale field of changes in county boundary lines.

COX: Yes.

BRADLEY: But even in the cases of minor changes, it generally has been considered by the Legislature at times to be a primary question of whether this change should be permissible by a municipality or whether it should be a change that is worked out mutually between the boards of supervisors of the two counties involved. So far what law we do have on the books is premised on the action of the two boards of supervisors of the counties involved making minor alterations and changes in the boundaries between the two counties. Maybe the clue to the answer to this is to simplify the procedure by which the boards of supervisors of Los Angeles and San Bernardino Counties, for example, in this particular area, would meet and mutually agree upon a minor adjustment of the county lines. It would solve a municipal problem or, as it might be in other cases, minor problems of county parks or recreation areas, and so on. Now we do have some other questions.

HEGLAND: Mr. Mayor, forgetting political reality and looking at some of these specific problems, for example, sewerage, could you not as easily, legally, solve this problem through a joint powers act and through a change in city boundaries?

COX: Yes, some of those problems can be worked out under the Joint Powers Act. It is not, I think, as satisfactory a solution or as a permanent solution. Now, for instance, we have had requests from San Bernardino County areas across the county line to be served through the Los Angeles County Sanitation District. At the present time, I understand, the law does not permit serving areas outside of the county. It is a creature within the bounty boundaries; that is, the very kind of a thing that we are talking about here and I think

possibly some of these joint powers agreements are more difficult to work when you are working with jurisdictions in a different county. It is a very strange thing actually. We have good relationships with our neighbors in San Bernardino County but we do not have very much in common in working with them on problems through different agencies and different committees, and so forth, as we do with other cities that are clear across on the other side of Los Angeles County. So these are possibilities; it can be done as you suggest, Mr. Hegland, but it isn't a very happy and very satisfactory permanent solution either.

HEGLAND: Just one more question. Forgetting political facts totally, could you think offhand - I won't hold you to this - of any problem which could not now be legally worked out by exercise of the Joint Powers Act?

COX: I think this sanitation disposal problem is one which could not be done without changes in the State law since I understand the county sanitation districts are set up within county boundaries and you cannot service outside of them.

HEGLAND: However, the City of Pomona under the Joint Powers Act could provide sewerage to these areas now in San Bernardino County.

COX: We could on a spot basis, yes.

HEGLAND: Thank you.

BRADLEY: Mr. Geddes.

GEDDES: Mr. Chairman, inasmuch as I have been mentioned here and since we do have the 1953 legislation question in the presentation, I would like to point out that outside of the channel, the

boundary line largely is what is known as Mills Avenue. That's correct, isn't it?

COX: Yes, sir.

GEDDES: It comes down along the county boundary and may - in some instances did - bisect properties, but those properties at that time were largely unimproved, so that the owner of the property had two deeds to it and the description of those had different northeast corners, but the northeast corner and the northwest corner coincided. Now up above is the City of Claremont which was very much concerned because as its boundaries extended westward, it was going into a sort of no-man's land in there which was unincorporated and I believe a certain part of that is still unincorporated and they had more or less of a distress area. The City of Claremont always has been very much adverse to any traffic in John Barleycorn in their city and across the county line there was some traffic. So the City of Claremont, as well as the City of Pomona, were interested in the problem, and when the legislation failed - and I think, Mayor, if you will check me - the following were the reasons that I gave, and that we would have to resolve these problems if we went into this. First of all, the crossing of the county line by a city to bring new area of another county into the county where the city is situated would create problems. For example, if Claremont extended and annexed across county lines, would the territory annexed cease to be a part of the County of San Bernardino? Therefore, to avoid the duplication of the exercise of the sheriff's office, police powers and others which previously existed, and the taxes for county services such as the



County Hospital and all of those things that would take not only legislative action but also probably a submission to the voters in spelling out the conditions of whether it could be done or not. Then the other matter which was very pertinent would be existing properties and whether this would be done at the will and pleasure of those people where there was some inhabitation or at least ownership of business properties. Adjacent to the Sears store on the street that now runs up and down the other side of the line and yet is west of the Wash, there is a whole business area built up, and behind it, I think, there were only two streets of houses adjacent to the Wash, which was a dangerous position for them in those days because the Wash hadn't been protected or finalized.

Now the other question is whether those people would have an opportunity to vote as to whether they should be included in the incorporation and that again would take several changes in the law. So I think, Mayor Cox, that you will recognize with all those things contained in those statements, those are problems that if the Legislature works on this, aside from the tax situation which unfortunately exists, still have to be cured and would take a vote of the people in order that the Legislature could pass on it too. That was the reason that the Committee didn't go further into it at that time. There was no time during that session; it was a rather complicated matter; we had a previous chairman and it wasn't put on our agenda for further study. But I think since Mayor Cox has presented this to us, and since I believe Claremont will join with them, perhaps because they still have the problem you have, that this is one problem that is

constantly before us and we should give it some attention - as to how we could perhaps cross county lines for an annexation without perhaps voiding all other rights which have previously existed.

COX: I would say, if I may, Mr. Chairman, that the solution to annex across a county line without changing the county boundaries is probably the easier of the two problems involved, and is the solution which has been reached in most of the other States where this has been done, and they have been able to do this and resolve this as I have pointed out, even to annex across county lines in cases where the county line happened to be a river. So there is some feasibility to it; there must be, if so many States over such a long period of years have not only had the laws to do it but also have accomplished it.

BRADLEY: Mr. Britschgi would point out to you that there is only one City and County of San Francisco in the United States and there you have the problem of both the dual nature of an area such as that annexing across the county line into San Mateo County.

Mr. Holmes, did you have a question?

HOLMES: Yes, thank you. Mayor Cox, you made the statement that you were very much worried about the situation and that a bill was introduced in 1953 and '54 to alleviate this situation. Then you more or less charged that the Legislature was derelict in their duty for not solving the problem. Is that correct?

COX: I don't mean to say they were derelict in their duties; there was an absence of action at that time. I realize, as we in city government encounter many times, that extremely difficult problems are not always quickly resolved. It has taken us 60 years to build

underpasses but I do believe that there was an absence of corrective action that could have been taken at that time and can be taken now.

HOLMES: Well, Mr. Cox, you realize that there are 80 members of the Assembly and 40 members of the Senate. In order to alleviate any of these situations there has to be a vote of 41 members of the Assembly and 21 in the Senate. Did it ever occur to you that probably your problem was not properly presented in a way to secure the votes, especially in view of the things that the Honorable Assemblyman Geddes has brought up, which involved the voting by the people of the two counties as to whether this could be done or not? Maybe it just wasn't practically feasible in order to consider solving it. Did you have a planning department at that time?

COX: Yes.

HOLMES: Well, it looks to me as if you have created your own problem and by the very fact that you are charging the Legislature with being derelict can possibly mean that you have done identically the same thing to yourselves when you allowed a building to be built across a county line. So the responsibility of this problem goes directly back on to the shoulders of the Mayor and the Councils of the Cities of Pomona and Montclair. It isn't a situation where the Legislature failed you; it is the problem that your own planning commission failed to recognize.

BRADLEY: I think, Mr. Holmes, that the point that the Mayor is trying to make here is that this is a basic problem that is illustrated by the example of the Sears store. I assume, Mayor Cox, that that's the point.

COX: Yes, Mr. Bradley.

BRADLEY: You are considering this as just an example.

COX: Yes.

BRADLEY: The basic principle involved here is the question of the municipality's right to cross a county line.

COX: Yes. As a matter of fact, you might say that right at the present time the cities of Claremont, Pomona and Laverne are in the process of developing an industrial park in which properties are being put together in one single ownership. This development would cut across three different city boundaries and I am sure that there are problems here and that there will be physical accomplishments as this is done that should not be limited by a city line or even by a county line.

BRADLEY: I think Mr. Holmes' point would be that if they are going on with some other planning that they had better know for sure what they are winding up with because they are going to create another problem.

HOLMES: That's right.

COX: I might just say this one thing, that I am sure our City Council and Planning Commission, of which I was not a member at that time, were aware of the fact that they were buying trouble when the Sears store straddled the county line but here was a case where we had an opportunity to get a Sears store and a shopping center that meant a great deal to the city, and it was the case that if Sears had been told that they could not locate there, and I am not sure legally that we could have prohibited them, we may have lost them from the city. Therefore, there is the matter of good planning and also the matter of reality.



BRADLEY: I imagine that all parties probably felt that they could resolve their difficulty without getting into a prolonged argument and it just hasn't worked out that way.

COX: That's right.

HOLMES: Mr. Chairman, I am sure that as long as there is a kitty of \$400,000, which is still growing, they are not going to get a change of boundaries until that money is dispensed with.

BRADLEY: You can readily imagine what the communities are all planning to do when they split that sales tax! Mr. Curtin has a question and then we will go on.

CURTIN: Mayor Cox, were you present this morning when Mr. Bean from the City of San Diego made his statement?

COX: Yes.

CURTIN: In your presentation you mentioned that the Legislature or the Governor could appoint a master, or referee, operating through a boundary commission to adjust county boundary lines. The City of San Diego, through Mr. Bean, proposed the idea of a State created agency which would take over the duties of the present county boundary commission as regards to city boundary lines and so forth. Such agency would also have the responsibility of studying all proposed annexations, incorporation movements, and the like, as to their merit or logic. I was wondering what your position would be on that proposal.

COX: My thought on that, I think, would be in agreement with his, that there probably is a need for a State agency to resolve these problems or to have a greater strength and jurisdiction in

determining the results. This could pertain to the city boundaries and to minor modification of county boundaries. The idea of the referee or an individual, I think, would be possibly a part of or an outgrowth of that commission's operations whereby they could appoint a referee or an individual to investigate and report back to the commission.

CURTIN: A sort of quasi-judicial type of a commission; is that what you have in mind?

COX: I would presume that would be the reasonable result, yes.

CURTIN: Thank you.

BRADLEY: Mr. Britschgi.

BRITSCHGI: One more question, Mr. Cox, and then we will let you go home. You were speaking a moment ago about an industrial park development in the area of Claremont, Pomona and Laverne...

COX: Yes, sir.

BRITSCHGI: Now let's assume that when this was all put together it had to be decided then that all this park should be in one city and Claremont decided it was going to be the city and it had to take out some of the area in Pomona. Would you object to that?

COX: I suppose that it would be a tough pill to swallow unless there were very compelling arguments for it. I think that there can be readjustments of city boundaries and county boundaries where there are compelling reasons for it. I might say that we have had, in our area, cases where cities have de-annexed to allow another city to come in and annex. This has happened in another city adjacent to our boundaries just this last year.

BRITSCHGI: To the City of Pomona?

COX: It was the City of Pomona and the City of Industry. The City of Industry had included in their incorporation a certain area which they de-annexed to allow Pomona to come in and annex.

BRITSCHGI: Oh, yes, but it didn't work the other way though.

COX: But it could have.

BRADLEY: Thank you, Mayor Cox. We thank you for your presentation. As I say, we have given considerable time to it but this is a growing problem in California and it is one that has already cropped up in several parts of the State. I do not hesitate to say that it is properly a matter for this committee to consider. It will undoubtedly be before the Legislature in 1961 in one form or another.

COX: Thank you very much for your keen appreciation and interest in the problem.

BRADLEY: Is Mr. Keith Murdoch, City Administrator of Anaheim here?

KEITH A. Murdoch, City Manager, City of Anaheim: I am Keith Murdoch, City Manager of the City of Anaheim. The comments I have for the Committee today are based on personal experience with over 100 annexations to the City of Anaheim and observations pertaining to many others involving other California cities.

First of all, I might state that apparently I am in a little different position than some of the previous speakers because I don't feel, and our city doesn't feel, that these annexation laws appear to

be quite as bad as they have been represented. We are reasonably satisfied with the annexation laws as they presently exist. Our primary concern is the constant change of these annexation laws so that every time we get used to a procedure and get geared to handling annexations on the basis of the existing procedures, up comes a change in the procedures that makes it very difficult to handle annexations and it means, quite often, that we have to start all over again. (Prepared presentation follows).

The present annexation laws are somewhat cumbersome but are certainly adequate to take care of nearly any annexation situation. Maybe this is because we have become accustomed to them. They presently provide adequate safeguards for the opponents of annexation, be they individuals or groups. My concern is the constantly recurring attempts to amend the law. Most of these attempts are detrimental.

There appears to be an erroneous but popular philosophy that most property owners do not desire their lands to be annexed to a city. I assure you, gentlemen, that this is not the case.

With the growth pattern which exists in most of California, a great deal of land is being converted from agricultural to residential, commercial, or industrial purposes. This conversion generally requires utility services like sewer and water, or services such as police and fire protection, normally provided by cities. Developers of land recognize the desirability and often the necessity for these services and, hence, are anxious to have those lands they propose to develop annexed to a city. In many unincorporated areas, the normal city services are not readily available. But the people living in these areas reach a point where they desire city services and are willing to assume their proportionate share of their cost. This too calls for annexation.

I submit then that whenever a substantial group of people, or the owners of substantial areas of land, are ready to take the annexation step, they should be able to take the step without stumbling blocks and without undue delay.

If any of the annexation law needs changing, I would suggest that those sections imposing time limits be amended to reduce the time wherever possible. I might mention at this point that the suggestion made by Mr. Bean of San Diego eliminating the possibility of a city initiating annexation on its own initiative might very well



be one of the answers to the problem of competing annexations. If annexations must be started either by the owners of property, substantial ownership, or by substantial proportion of registered voters, this might, at least, reduce the amount of conflicting annexations that fail somewhere along the line.

Here are some specific examples:

The Annexation Act of 1913 requires that the City Planning Commission act upon the requested annexation before the City Council can consent to initiation of proceedings. The purpose of this step apparently was to see if the development is up to the standards of the annexing city. What happens if they are not? Usually the area wants to annex so that it can improve its situation. I suggest, then, that Sections 35108 and 35109 are unnecessary and should be deleted.

Next the City Council must give its consent to initiation of proceedings, allowing the proponents to publish a notice of intention to circulate a petition. Section 35114 requires that three weeks lapse before the petition can be circulated. I fail to see what advantage this three week time lapse is; it would appear that one week is adequate delay.

After a petition containing signatures of at least 25 percent of the registered voters of the area has been received by the city and verified by the city clerk, the Council can set a date for public hearing. Section 35118 allows the hearing to be within 15 days of the date the petition is verified and officially received by the Council. But this is impossible because of the following sections. Every property owner in the entire area must be notified in writing at least 20 days prior to the hearing date. This is a good provision but the time does not coincide. In addition, Section 35119 also requires newspaper publication once a week for two weeks. These are sound, logical and thorough steps but I suggest that the twenty day requirement be reduced to fifteen days so that the three provisions would concur.

Section 35120 carries the most useless and unfair provision of all by providing for "supplemental" protests to be filed within ten days after the public hearing set for receipt of protests. This was an unwarranted addition by the 1957 Legislature and should be removed. The balance of the section, however, is reasonably well worded.

Under present annexation law, an inhabited territories annexation now takes at least six months to complete. Many take much longer. This is an extremely long time for most areas. The timing is expensive and frustrating to those sincere persons desiring annexation. This is one of the reasons that I fervently believe the Uninhabited Territories Annexation Act is essential.

Few farmers want to pay city taxes on land devoted to agriculture unless they plan to soon convert the property to domestic purposes or sell it for conversion. We are certainly in sympathy with

this approach. A developer or buyer, on the contrary, wants all essential utilities and services readily available. Even if those services could be made available immediately upon annexation, few farmers are willing to sell their land on a six-months escrow, and few buyers want to tie up funds idly during that period without being sure of annexation. The uninhabited annexation offers a solution, but here too substantial improvement can be made in timing.

Since each property owner must be notified in writing at least 20 days in advance of the public hearing, it would seem proper that this 20 day period would suffice for the minimum time between receipt of petition by the City Council and the date of public hearing. Perhaps it would be desirable to keep the present 40 day limit for those annexations started by council initiative but not those initiated by petition, that is, if the suggestion made by Mr. Bean of San Diego were not adopted.

In addition, the public notice provision should be adjusted to allow the 20 day period from the date of the first publication in a newspaper of general circulation rather than completion of publication. You see, here again is a time conflict. I believe that these two adjustments would save approximately one months time and hence recognize the normal 90 to 120 day escrow for lands purchased subject to annexation.

Much criticism has been made of the so-called "strip" annexation. Although it has been a badly abused type of annexation, it does have some practical uses. In 1953 Anaheim annexed an area which consisted mainly of a strip between 200 and 300 feet wide. This ran through primarily agricultural property which was destined to become developed over a period of the next few years. This fact was recognized by the property owners in the area who felt that this strip type of annexation would establish a "base line" of land to which they would annex their properties before development was to occur and still it would not put their entire parcels of land within the city's boundaries and hence subject them to an additional city taxation. This base line, one of the ridiculous things on the map, serves a very practical purpose. Since the annexation in 1953 the entire area has subsequently been annexed in parcels to the city and is now entirely developed. So my point is that sometimes these strip annexations are practical and I would caution the committee not to just arbitrarily remove the strip provisions. If you are going to change them, safeguard the abuses but let's not eliminate the idea completely.

These are a few of the comments which I hope may be helpful to the Committee and if you have any questions, I would be glad to answer them. I do have a couple of comments pertaining to addresses that have taken place previously this morning, if I could have a later opportunity to present them.

BRADLEY: Thank you, Mr. Murdoch. Mr. Geddes?

GEDDES: First of all, I would say I appreciate getting the opposite viewpoint as to some of the things we have studied here. I have no particular criticism of your doing that but I would like to comment on your statement that Section 35114 should be changed because you believe that one week instead of three weeks is adequate delay. Now I would point out the fact that in a great many areas there is only one daily paper and that daily paper is published in one city and it does not necessarily have circulation in other cities that are in the area, since they have their own hometown papers. Now suppose the action is taken by the city council on Tuesday night, or at a meeting on Wednesday night, which was adjourned that night, to consider the whole thing when they have a lot more time. Now the action of the city council, even on Tuesday night, just barely gets into the local weekly newspaper by the skin of its teeth, and if it is on Wednesday, it probably won't get in at all, or if it does, the paper comes out on Thursday and is delivered on Friday. It seems to me that with just one week you have a lot of people who are not entirely sure, and they have heard about it for the first time, and the turmoil becomes considerable, especially since you shortened the time, because they have only got until the next Tuesday or even one publication date before they can act. For that reason I just don't understand completely your argument to reduce this to a one week delay.

MURDOCH: Mr. Geddes, this provision pertains to the lapse of time between the time that the notice is published by the proponents; this does not have anything to do with action taken by the Council. This is prior to a circulation of a petition by proponents of an annexation. If a city council acts on its own initiative, I have no brief on that.



GEDDES: No, I realize that, but it still seems to me that by your change there is no adequate notice given. By the time that you read in the paper of the proposed annexation and you are starting to make up your mind whether you are going to sign such a petition or not, there is already quite a lapse of time gone before they circulate the petition.

I have one more question concerning an area where I can't entirely agree with you after listening to the presentation this morning of Los Angeles County and looking at some of the strips that they showed us. While we can have these property owners come in with their property later on and add those to the base line, it is entirely possible in many instances, as I visualize some of those which were called to my attention, that City A would be on one side of the strip line and City B on the other, and you would still be creating a situation that you have been trying to get rid of. By annexing into a strip that will go down there, why then we are repeating these swastika patterns that clutter up the maps. It is just a point of disagreement. We have fought too long and hard over this strip business as to how big and how long it should be. It seems to me that this is the one thing I can't entirely go along with.

MURDOCH: May I make one point along that line? In the examples used by the County of Los Angeles this morning, they made a couple of points that these annexations, be they strip or island annexations, were connected by a city street or something of that nature or that there were areas within the city which could not be served by a street within that city. This assumes, I believe, that



the street, whether it be in another city or whether it be in the unincorporated area, is not usable, and I don't believe that this holds up as a fact. We had a couple of annexations of that nature, at least one, and we don't have much of a problem getting to that area and serving it.

GEDDES: You mean then that the property owners in a strip such as you described would not have one of their boundaries along an existing street or road, or that they would go up to the other end of the property and annex onto those portions of the property which do not now have a common boundary?

MURDOCH: No, I believe we are talking about two different things. The type of example that was used this morning, one specifically, indicated an island area - a strip was not involved in this particular one - where this island area could not be served by the County of Los Angeles in this instance because the connecting street, which would serve the island area, was annexed by a city. The inference was that the county then could not satisfactorily serve that island area because the street was in the city. I don't believe that that case actually, or that inference, is correct. As far as the strip situation is concerned, I think something similar occurs where we have a connecting strip to a large area which is for the most part separated from the bulk of the city by an unincorporated area and which is only connected by serving streets running through the unincorporated area. This is not necessarily a bad situation; we certainly can use county roads to run our fire equipment on. We can certainly run our trash equipment on our county roads to serve other portions

of the city when we have to run through unincorporated areas which are not yet developed. After all, we are in a growing area and the whole area doesn't grow at one time. We have to serve those areas which are ready to grow when they are ready to grow and then annex the balance of them later.

HEGLAND: Mr. Chairman, may I say to Mr. Murdoch that I think he made a very eloquent presentation but there is the other point of view. I think in justice it must be admitted that the groups seeking annexation have powerful organizations, whereas the cities which are about to be born have no organization at all, and in context, the burden of your testimony is to make annexation simpler. Now my own Assembly District happens to be an Assembly District where we have amateurs who wish to incorporate and who are up against competent, efficient and dedicated leadership of the City of San Diego, and the contest is consequently not equal. This has been a situation that the people in my area have faced for years. A generation or so ago the City of San Diego took the high assessed valuation of El Cajon Boulevard and left to the City of La Mesa the homes where the kids live, that is, the La Mesa-Spring Valley School District. We found that when recently the City of Del Mar, in my District, was trying to incorporate, the contest was very difficult, even though the people did finally succeed in incorporating themselves, because of all of the expert testimony and advice being offered by the leadership of the City of San Diego. Consequently, it should be recognized, I think, that some of these unnecessary delays are to equalize the contest between amateurs and competent professional experts in the field who are necessarily committed, and quite properly so, to the philosophy of the group by whom they are employed. I think that

perhaps we may need additional delay so that the contest would be equal. I would give just one other example. The City of San Diego recently, forgetting about this Bay annexation, came out to the community of Lemon Grove and they took on the Walter Scott Shopping area, taking all the money and leaving Lemon Grove the streets which needed repair.

MURDOCH: I can see some point in that. Don't misunderstand me. I have not made an appeal to make the annexation necessarily easier. My appeal, primarily, as I pointed out to begin with, is let's not make it any more difficult than it already has been.

BRITSCHGI: There is one question, Mr. Murdoch, concerning your statement on the bottom of page 2 of your presentation where you are speaking of Section 35120, which was adopted in 1957. I well remember the discussion concerning that piece of legislation. Of course you must remember that on the Committee there are two schools of thought, and possibly three or four, but mainly two: there are those who favor annexations and incorporations and those who favor county services, so we have those definite oppositions. It was felt that on the side of the protestants many times they are not fully notified. Here we were thinking at that particular time about the absentee property owner who was probably sent a notice which maybe had to be forwarded to New York, or someplace else, and his protest would never be entered in the books. Therefore we allowed this extra ten days, and that was the reason for the clause to be put in there, and I would say to you that I think probably you had better try to follow another avenue on that point because I am sure you would never get that off the books of the Legislature because we really went hot and heavy on that. I remember the arguments well on that particular

case and I think that actually it passed unanimously after it had been discussed because the members felt some of the property owners were not getting a fair shake on it. That was the reason for the legislation.

MURDOCH: Apparently we were not aware of that reason; it certainly sounds logical. We haven't had that kind of a situation arise.

BRITSCHGI: No, in certain areas you wouldn't have it and where we are talking about a home owner occupant in an annexed area, you wouldn't have it.

MURDOCH: I wonder then whether it is better to say an additional ten days or whether to set a certain period to begin with because what we actually run into is that we have the hearings and then you reconvene the hearings in a minimum of ten days later; that's automatic.

BRITSCHGI: I have a problem in my own district where we have all renters and where the property owners are trying to annex it into the city. You figure that one out.

MURDOCH: Yes, I think I could. I might make one more comment on that first point, that the only advantage I can see in having the additional ten days, rather than having it all encompassed in one, be it twenty or thirty days, or whatever is a logical period, so that the absentee owner does have sufficient notification and time within which to act, is that if all of the property owners within an annexation had sent in a notice of what their desires were, be they for or against the annexation, presumably then you could cut off the ten days.



BRITSCHGI: Yes, I think that probably makes sense.

MURDOCH: Perhaps there is a good advantage in that ten day period.

BRADLEY: I believe Mr. Curtin has a question.

CURTIN: Concerning Section 35120 about which you were talking, Mr. Britschgi, there are some objections to that ten day extra period after the day set for protest hearing for filing supplemental protests, as to just exactly what time that should commence, and I want to know what would be your suggestion as to clarifying that further since it may not be known for more than ten days after the time set for hearing protests whether they are adequate or not, maybe the Section should be amended to extend the time by adding "or to the time the hearing may be continued".

MURDOCH: All I can answer there is that our practice has been whenever a hearing is held to automatically set it over for an additional two-week period, which would include, of course, the ten day period allowing the absentee owner an additional time, and this seems to be satisfactory for anything that we have ever run into. As a matter of fact, very seldom do we get additional protests.

CURTIN: Thank you.

BRADLEY: Mr. Holmes.

HOLMES: I just want to make one comment in regard to Mr. Britschgi's statement. We have a proposed annexation in Santa Barbara called Montecito, and the property owners are all in favor of the annexation. However, most of the property owners do not live in the district so they can't vote, but they have at least instructed

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their tenants to vote for it and the only ones that are fighting it are people who do not own property in the district or who do not even live in the district.

MURDOCH: Apparently there are two practical answers. One of them is a very strong educational program and the other is piece-meal annexation.

BRITSCHGI: The only trouble is the only one who gets to vote on that, Mr. Murdoch, is the registered voter. That's the difficulty we are having. As a matter of fact, they are condemning some of the homes in our area because of sewerage, and other people are renting the houses and they are not going to vote to come into the city and be charged \$500 a lot for the sewer when they know that it is going to up their rent; it is logical that they are not going to vote for it.

MURDOCH: Presumably this is a very dense area which could not even qualify in a series of uninhabited annexations.

BRITSCHGI: That's right.

BRADLEY: Mr. Murdoch, we thank you very much.

ASSEMBLYMAN CHET WOLFRUM: May I ask Mr. Murdoch a question, Mr. Chairman?

BRADLEY: Yes, Mr. Wolfrum.

WOLFRUM: Under Section 35119, I think it was, every property owner must be notified in writing at least twenty days prior to the hearing date.

MURDOCH: Yes, sir.

WOLFRUM: And then under 35120 an additional ten days is allowed after the public hearing. Did you suggest that possibly

this twenty days should be made thirty days, which would eliminate the necessity of the 35120?

MURDOCH: Well, that was the discussion with Mr. Britschgi and with the explanation that he gave, perhaps there is an advantage in expressing it as a twenty and ten day period. If you have heard, or if the city hears from every owner, then there would be no point continuing for the additional ten days.

WOLFRUM: Well, there are really two public hearings required under the terms of the present statutes; that is, if you have a protest from the absentee owners.

MURDOCH: In effect, it's a continued public hearing.

WOLFRUM: You could eliminate one public hearing if you extended the time in 35119.

MURDOCH: True.

BRADLEY: Thank you again, Mr. Murdoch.

MURDOCH: May I make two comments pertaining to this. In previous discussion today - you recall when Mr. Phillips was asked by the Chairman whether Orange County had an ad valorem tax for road purposes, I believe it was?

BRADLEY: I believe we got a correction on that.

MURDOCH: They used to have; they don't now. And the other point was in the presentation made by Los Angeles County where a suggestion was made allowing a tax exemption to city owned properties in the unincorporated areas which would make the annexation along such lines unnecessary. I would wholeheartedly concur with this type of recommendation. That is the only purpose that I can think of for

annexing such land. This takes off one type of strip annexation which very often is an abuse of the discretion and it also takes out the other type of annexing lines that are normally not a part of the city. Thank you.

BRADLEY: Thank you. Now, ladies and gentlemen, we will take a recess for five minutes.

#### RECESS

BRADLEY: Ladies and gentlemen, we will next hear from Mr. Stanley Tomlinson, the City Attorney of Santa Barbara.

STANLEY T. TOMLINSON, City Attorney, City of Santa Barbara: Mr. Chairman and members of this Committee...

BRADLEY: I might say that Mr. Tomlinson is a former member of the Legislature and a former member of this Committee.

TOMLINSON: I was going to suggest that even that exposure, together with the exposure of two and a half or three years as the City Attorney of a growing community has still not constituted me an expert on the subject of annexation; I am very far from it.

BRADLEY: And I would say that that would have taught you a lesson.

TOMLINSON: That's right, but I find that there are so many duties in that office that it is impossible, unless there can be a specialization, to really constitute an expert in this field. I do wish to apologize to the Committee for my failure, due to lack of time, to have prepared a formal written statement. However, I think that I can say that the City of Santa Barbara, while it has encountered annexation problems of some considerable consequence,



as I expect to discuss in a few minutes to a limited extent, the problems by and large have been somewhat routine and are problems that possibly are common to many, many communities which are having the normal growth pattern. I am sure that from the standpoint of the City of Santa Barbara we are not in the so-called explosion zone; we are certainly in the fall-out zone, even though the county, I believe, rates highest in percentage of growth in the past year of 1959. That, of course, is somewhat to a large extent attributable to the growth in the northern part of the county by reason of the missile base. I wish to reverse my field and make one brief comment on the subject that was being discussed by the last speaker and by Mr. Britschgi on the addition and amendment to Section 35120 relating to the ten day supplemental period. I take it that ten day time period was borrowed from the initiative chapter in which the petitioners have ten days to supplement their petitions and cure an inadequacy. The same effect, I take it, is intended here. This happened to me just the day before yesterday and my own interpretation possibly doesn't coincide with that of Mr. Murdoch and possibly others, but since the Section is new, we are all on our own to interpret as we best can at the time and under the circumstances that appear to us. Mr. Curtin, I believe, inquired of Mr. Murdoch as to whether or not some clarification could be had of the Section and I think it can in determining a specific time that the hearing shall be closed. For example, the protest hearing was held about a week ago on the annexation mentioned by Mr. Holmes and the Council determined that at that time the protests were insufficient, whereupon the City Attorney offered

the ordinance of calling a special election, however insisting that it run the usual charter course of three full readings, since under the charter election ordinances, along with certain others, are in effect on the day of final adoption. Therefore, the date of adoption of an ordinance calling an election will be twelve to fifteen days following the expiration of the ten days, but I do suggest to the Committee that consideration could be given to a minor amendment to clarify the precise time that the hearing should be closed and protests finally determined. Of course, in our situation, if the ten day supplemental time produces the 51 percent protest, our course is automatic. I mean, there is nobody hurt; it is just dumped. It is finished and the only difficulty has been the time expended in preparing an ordinance. It is of no effect and it will just be abandoned.

GEDDES: Could I ask you a question right there?

TOMLINSON: Yes, Mr. Geddes.

GEDDES: Don't you think, inasmuch as in these things we are playing for keeps, and granting that there should be a cut-off date, that we all understand, that setting a date to allow ample time is much better than shortening it up which may preclude one side or the other?

TOMLINSON: Philosophically you are quite correct. It does produce a difficulty, however, in setting the exact time for the guidance of the Council.

GEDDES: There should be an exact time...

TOMLINSON: Yes.

GEDDES: ... but that time should not be too short.

TOMLINSON: That's right. There is a great advantage in people having a supplemental time where there may be a change in conditions. On the other hand, it has the correlative disadvantage of possibly bringing political elements into the thing and unfair tactics, if such could ever happen in an annexation proceeding, and I am sure they couldn't, not even in Santa Clara County, where I understand a few years back there were twelve or fifteen annexation contests pending in the Superior Court at the same time.

BRADLEY: We have cut them down to twelve now!

TOMLINSON: Another minor suggestion that I would like to make and which is based on the work-a-day experience of a city attorney, concerns the business of conditions for annexation. These conditions would apply primarily, I take it, to uninhabited territories wherein there is a prospective and known subdivision development to follow immediately. Since the Subdivision Map Act is somewhat limited in its powers, and since city councils at times are conservative and apprehensive in imposing unreasonable conditions in connection with subdivision practices, they might shift their desire to obtain the necessary public improvements by making it a condition of annexation. There is no guidepost, other than the age-old doctrine of reasonableness, that can guide anyone, and as you well know, what is reasonable to one man may be most unreasonable to another. For example, in a growing district where there is a proposed subdivision, coupled with a precedent annexation, and where the density of population indicated by the proposed subdivision, as well as the existing subdivision development in the area, indicates a great

need for parks, and after the earlier subdivisions have come in and been voted out, the need for the park becomes obvious; then the last subdivider or developer or proposed annexor comes into this uninhabited territory and the city councils says we want two or three acres of land as a condition for annexation. The City Attorney does his soul searching and says, well, I am not sure whether it is reasonable; you people are the laymen and the policy makers so you have to decide whether it is reasonable, and so on the one hand the subdivider talks about his values and how much we are cutting off his right arm, and so forth, and the city says we've got to have the parks - period - "no tickee no washee". I think that borrowing from the Subdivision Map Act, the Committee could well establish some guide posts possibly for conditional conditions to be attached to annexations. I cite the park situation. It is only one thing. You have the off-site sewer expansion; you have the off-site water expansion - all of which are normal every day problems that can usually be worked out, but nevertheless, when a tough one arises, it is most difficult to proceed within the broad confines of the doctrine of reasonableness. At least such has been my experience.

Concerning the airport annexation thing, I listened with great interest to Mr. Curtin's remark this morning and, as a matter of fact, I thought so much of it that I wrote it all down as I best remembered it. He indicated that this Section 35201.5 was a "sneaky" approach to a new method of excluding territory from cities and changing and altering boundaries. Well, I would be so bold as to suggest that some Justice of the Supreme Court is going to come along



one of these days and use even stronger language than that if this matter is ever encountered. For example, this business of tests of one or more registered voters in a 100 acre airport annexation is to me somewhat unrealistic because it can be almost manufactured at will. Furthermore, if the board of supervisors sees fit not to grant the permission to annex, they can, in many situations, have a means of establishing a bona fide voter resident within the proposed 100 acre annexation. A typical example would be where an arrangement existed between the city airport owner and the county fire department or a county fire protection district to maintain a station in or around or about the airport someplace, then they could put in a resident fire chief and you have your registered voter and hence under the statute no power whatsoever to annex exists. Then the fact that when a voter comes in after annexation, the area is going to be automatically taken out of the city, seems to me a rather drastic thing. I possibly haven't thought it out fully and it doesn't affect the City of Santa Barbara, but it is one that certainly caused some eyebrows to be raised among those of us who do have problems involving noncontiguous city owned airports.

Now to take up what remains of the few moments of my time, the City of Santa Barbara a few years ago made annexation history, at least enough history that it in two instances produced very prompt amendments by the 1957 Legislature, and that was the so-called sanctuary or tidelands annexation. In that situation the City of Santa Barbara owned its airport consisting of some 900 acres, had owned it since the acquisition from the War Assets Administration.

It had the makings of an industrial park and the area has since become a very well developed industrial park in and around the airport, and the city found itself in a very important and rather heavy type of land owning and land management business, just from the airport. It was obviously desirable to bring that into the city. As you know, Santa Barbara is on a coastal shelf and there is limited space available; the mountains are out of the question; there is no strip available. The airport is five or six miles from the nearest point of the city; therefore, based on the 1955 Session's amendment to the Public Resources Code, and using the same description used in the so-called Sanctuary Section of the Shell-Cunningham Act, the city proceeded to annex as an uninhabited annexation an area of ocean extending three miles to sea and about fifteen miles long back to the shore at the northerly or westerly boundary of the University of California, Santa Barbara, and thence along the shoreline to a slough or estuary at the Goleta State Park. That created a corridor of approximately 600 feet wide, having, I don't recall the exact width at this moment, but it is a rather narrow corridor; it qualifies well under the statute. The corridor extends thence into the airport which lies right up to the shore of the ocean. When that annexation was completed and filed with the Secretary of State, the city then had jurisdiction not only over all those square miles of ocean but it had the airport. But that was a means of contiguity. Shortly thereafter an action was commenced by the Attorney General in quo warranto, and also the Attorney General acted on his own motion at the request of the State Lands Commission. That suit is

now pending in the District Court of Appeal and I think it would be probably inappropriate and improper for me to go into any discussion of the primary issue that will be presented to the District Court of Appeal in the questions on appeal. There were some side questions, however, that were raised that have since been at least temporarily set aside inasmuch as the court granted a motion for summary judgment on the pleadings of the case several months ago and that is the state of the case that went up to the Appellate Court. In that situation the issues are limited but abandoned along the way, or at least temporarily set aside, were several items, one of which was the question of residence and whether it was an inhabited annexation or was it an uninhabited annexation. Under Section 35303 in the test of twelve opponents of the annexation at the time of the protest hearing, at or before that time, there were produced protests of twelve or more students of the University of California, Santa Barbara, who were living on campus in dormitories. None of these were permanent residents of the community; they were transitory; they were there because they were getting an education, and since they were adults, they were entitled to vote and were enjoying their franchise while they were thus engaged at the University. All of these students were outside of this corridor. They were without the annexed territory but the corridor that I described a while ago did cross University of California property. Under the Pennington vs. Richmond case, one part of the property was taken and the remainder was left outside. Opponents of this particular annexation, therefore, took the position that the entire University of California

would have to be considered for the purposes of the annexation and that it was, hence, an inhabited annexation. In talking to a gentleman who was the Mayor at the time of the annexation and who is special counsel in connection with the appeal and the trial of the lawsuit, it was his thought that Section 35303 could be tightened up and made more realistic by requiring some showing of bonafides as to the nature of the registered voter. In other words, means should be found within the framework of that section to eliminate the possibility of an otherwise valid annexation being frustrated by persons who have no real interest but who do qualify as being, under the present circumstances, registered voters. I haven't had an opportunity to work out a formula for that sort of thing but I feel that it is in the area where large numbers of military personnel may reside and be registered voters, or where other persons of transitory occupations may reside, that it is possible to have, and might have been so in our case, perfectly otherwise valid annexation frustrated by persons who had no real interest in community services or in the action of the city in seeking annexation. I believe I have used up my time, Mr. Chairman. I do appreciate the opportunity to be here and if there are any questions I would be glad to try to answer them.

BRADLEY: Mr. Geddes.

GEDDES: Just coming back to your last thought, then, it seems to me what the Legislature meant, as I explained this morning in talking about that Act, was that when we have an annexation or an incorporation which, of course, is limited to voters under the law now, it could well happen that we could have envisioned people who



are residing and who will continue to reside, and who will be the citizens of the new incorporation or annexation; I think that is where our definition will have to apply.

TOMLINSON: That's right. Now that could possibly be reached by an affidavit touching upon the bonafides of the voter situation. It would, of course, have the effect possibly of eliminating or reaching the problem created by these people artificially established, and as the cases have held, the courts are not concerned with a person's voting, or when he votes. For example, the question could be raised as to any person who claimed to be a registered voter within a territory in which he sought to establish it for the purposes of an inhabited annexation; he could move in the day before the hearing, or two days before the hearing, immediately register to vote and change his registration but not be entitled to vote. If we pulled that thought from the Elections Code into it, that he has got to reside in the precinct for ninety days at least, we would then have caught one corner of the alleged problem; and I say "alleged" because I really don't know how real it is in other communities. I have had no experience other than from the problems that have been raised from some of these cases because they use these devices touched upon by the Pennington case and one or two others. Anaheim, I believe, had one involving residential qualifications.

BRADLEY: Are there any other questions? If not, we thank you very much, Mr. Tomlinson, for your presentation.

TOMLINSON: Thank you very much, Mr. Chairman.

BRADLEY: Mrs. Gladys Dwiere and Mr. Hal Whelpy, will you come forward, and we will have Mrs. Dwiere make her presentation first.

MRS. GLADYS M. DWIERE, San Diego: We are essentially together, yet cities apart. I think that time is of the essence here today and I won't take up any more of your time than is absolutely necessary and, of course, as far as we annexees are concerned, the problems are too ponderous to cover in even the full length of time allowed for the entire hearing. We, as a group dedicated to keeping the things that have happened to us from happening to too many others, would like to request of this committee that another hearing, or series of hearings, be set up by the proper committee so that we can make the criminal charges we want to make against the offending city and with that in mind, I will read my request for legislation.

BRADLEY: Do you want to make them as strong as criminal charges?

MRS. DWIERE: Yes, sir, they are criminal charges.

BRADLEY: This is related to a problem, I take it, that you had as an annexee and found yourself involved in, in connection with annexation proceedings.

DWIERE: Not only myself but many many other people who have been hurt terribly by violations of the law.

BRADLEY: Was this an inhabited territory annexation?

DWIERE: Uninhabited.

BRADLEY: Uninhabited?

DWIERE: Yes, in both instances - I've lived through two annexations.

BRADLEY: Did the question of whether or not there were twelve or less resident voters enter into the proceeding?

DWIERE: No, sir, that has no bearing on the charges which followed. I was called in and to use the modern day phraseology, a "snow job" was done on me to get my signature in the last one. In contradiction to my better sense, I was sold a bill of goods and signed, and from that day on the retaliation has been pretty terrific. They have put me out of business for no reasons that have ever made any sense. This has happened to many other people. We can have annexations without zoning problems and therein lies the greater difficulty, that is, the illegal discriminatory and Un-American zoning practices which are taking place in these annexations and depriving people of their life's work and savings. In the final analysis, we are citizens and Americans. We may be small in voice but we are still citizens.

BRADLEY: I take it there was a zoning change that followed after your annexation?

DWIERE: In my own particular area, we came in under the uninhabited area annexation legislation which took place in 1953; in fact, I got out of National City on that one. They required 100 percent of the signatures. Now we have large corporate groups who have their own particular purposes in mind and in uninhabited territories you have a very small handful of residential owners. I think a classical example which I can give you from my experiences in and out of two annexations covering a period of seven years, is that I finally got my first trash pick-up November 2, 1959. It's a series of criminal deprecations and absolute neglect. These cities can in no measure, even today, fulfill their obligation to us that they are

required legally to be able to fulfill the day that they annexed. We are the stepchildren of all creation. The annexees who are present here today have taken time from their businesses, or what they have left of them after annexation, and other interests, in the dedicated effort to protect future annexees from the practices by cities which have created these losses.

In this premise, may I respectfully suggest the following corrective legislation: 1. After annexations have been completed and voted into the city by the Council, and prior to the affixing of the seal by the Secretary of State, I feel that it is imperative that the annexees be granted the protection of the State. This should be provided in the form of a board of three judges from the Appellate division of the Courts to determine the legality of the annexation. 2. I further request that no general election can be held in connection with these annexations, and that only the property owners of the specified area be allowed to vote. 3. No city can legally change the zoning status or the previous status of any development, business, and so forth, in existence prior to the time of annexation unless the Council shall rule to the contrary, and all affected parties are notified thirty full days prior to the annexation vote. This notice shall be by first class mail. 4. Any and all temporary zoning imposed legally shall have a one-year statute of limitation and all annexees shall be protected by a two-year statute of limitation. This already applies to the uninhabited areas. 5. Require a 75 percent majority vote in all inhabited area annexations, and require a 100 percent vote in all uninhabited area annexations.



I wish to thank the Chairman and the Committee members for the opportunity of presenting my suggested legislation, and sincerely hope that a clean-up of the past practices and violations of the law in these annexations may be prevented in the future.

BRADLEY: Thank you very much.

DWIERE: Mr. Whelpy has something to say and I again request of the Chair that some committee legislation be introduced to check into these things. They are deplorable.

BRADLEY: Check what?

DWIERE: Check into the infractions that have taken place. We realize this is for the future protection of all citizens and that is what we are here for now. We would like to tell what has happened to us and to furnish the truths.

BRADLEY: Thank you very much. Mr. Whelpy?

HAL H. WHELPY, El Cajon: My name is Hal H. Whelpy and I am in business at 12669 North Second Street, El Cajon, California. I am not an expert; I am a taxpayer and voter, representing the El Cajon Valley Homeowners and Taxpayers Association, Inc., P.O. Box 806, El Cajon, California. Our Taxpayers Association concurs in the previous suggestions, as follows: 1. That public street access should be required within all annexation areas. 2. The limitation of not less than 10 percent of the perimeter of any annexation areas to be contiguous to the boundaries of the city to which annexation is proposed. 3. We propose that when a petition for annexation is presented to any city, or any body, that a public hearing be held before an Appellate Court for the Court to determine the following:

the proper boundaries of the area proposed for annexation; the justification for the annexation; the governmental agencies, or districts and cities, affected by the proposed annexation; and the decision which city or cities should have the privilege of annexation in those areas. We also propose that in all annexations no individual property owners should suffer any more restricted zoning upon individual parcels of real property than for the uses to which their properties are put at the time of annexation.

The use of Appellate Court facilities offers these advantages: 1. The trend in government is to take any action on the premise that whatever the governmental body decides is legal until the poor individual citizen spends his time and money on top of court and attorney's fees to retrieve or protect his personal or property rights. Therefore, decisions by Appellate Court would augment governmental administrative aspects of annexation, with the solid foundation of judicial action for justice under the law for all citizens concerned. 2. Appellate Court action would preclude selfish city ambitions, or rather, purely political or partisan considerations from being a determining factor in annexation. 3. Appellate Court decision of all annexations would remove local bickering from the decisions on any annexations. 4. Protection of the rights of individual citizens would be the responsibility of the government, as it rightfully should be, rather than the liability of the individual citizen whose rights may be at stake. 5. Flexibility within the meaning of the law and the wisdom of the court should be effected. After the final Appellate Court public hearing, the Court should

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cause all pertinent facts to be brought to the attention of all the citizens who own the property concerned, and these facts should be placed upon the ballot for annexation. Such facts should include the statements of whether or not any change in zoning or any new zoning is contemplated by the annexing city.

I have experienced annexation. We beg that you keep foremost in mind the taxpayer. We are opposed to government upon government, more government within government, more bureaus, commissions, districts, committees, divisions, agencies or departments, for solution of this or any other problem. Citizens in annexed areas should be full time citizens of the city to which they are annexed, starting at the time the annexation vote is finally determined. Only property owners should be allowed to vote on the matter of annexation. An election should not be sooner than 60 days nor later than 120 days after notification of all property owners of all facts submitted at the annexation hearings and boundary hearings. We are opposed to annexations predicated upon conditions, any conditions, such as the building of a big department store or something to provide further taxes for any city.

That concludes my remarks. We appreciate the opportunity to be heard here today before your committee. Thank you.

BRADLEY: Thank you very much for coming before the Committee. We are happy to have had the opportunity of hearing you. Now, is Mr. Bear here?

JAMES BEAR, Attorney, National City: Mr. Chairman and Members of the Committee, my name is Jim Bear and I practice law in



National City. I am the attorney for what we call the South Bay Citizens who have a case presently in court, opposing the South Bay annexation. It's not my part here today to argue the case but rather to make certain facts known to you as to just how our annexation laws have been applied in this area. On the map there I believe you can see San Diego Bay. The Island is Coronado Island. Down below the City of San Diego is the city called National City, and below that is another city of Chula Vista. The contiguity relied upon by the City of San Diego to the area to the south of both Chula Vista and National City, and adjoining the Mexican Border, is a 300 foot wide strip right down the center of San Diego Bay. Therefore, this is the second case that you have heard of today where Government Code Section 35002.5, concerning contiguity, has been applied in practice in an annexation; in fact approved although now contested in the courts. Your wording there of "territory" has been applied to include territory under water, despite the fact that the Legislature put in an amendment to say that a strip annexation could not be used if the only contiguity was a strip of land of certain dimensions. The word "territory" was used so the big argument concerns just what is contiguity. I would suggest to you that the following areas should be investigated: 1. The wording in Section 35002.5 on strip annexation as to just what is contiguity, whether you want it exclusive of highways and exclusive of navigable water or not. 2. With regard to tidelands, there is a question just how far out into the tidelands a city can go. A few years ago tidelands were not too important, the only thing we ever heard of was three

miles. Then they discovered oil and they have gone out further than that now, but tidelands are important in the State of California. Is there any limit on how far out a city can go? What is the jurisdiction of the State Lands Commission? You heard another witness state that the State Lands Commission asked to be joined in a case asking the Attorney General to sue in quo warranto. 3. Can there be any benefit to a city by annexing out in tidelands, especially when the idea is to provide access to another area that they cannot get to by virtue of land?

Another Code area I would direct your attention to concerns Sections 35115-16 as to the question of how long does a city have exclusive jurisdiction when a petition has been filed? The Code states, I believe, some fifty days, but there is a provision for a supplemental petition if the signatures are in fact found insufficient. Now does that ten days to get supplemental petitions in mean, in fact, that you have fifty days, plus an additional ten day period, or can you be cut off at the end of the fiftieth day when you find that your petition is not in fact sufficient? Just what is the extent of that exclusive jurisdiction? Now the factual situation here, to be a little bit more specific, involved the City of San Diego going down the middle of San Diego Bay with a 300 foot wide strip, bypassing two cities, one of 30,000, one of 40,000 people, and going down some six or seven miles to an area to which there is no access for services other than down the Bay. The question I would like to raise is the actual reason for annexation, whether, in fact, you want a legislative intent that there ought to be some basis behind it

regarding services, some basis as to community interests, some basis as to whether there can be access, some basis on whether a natural boundary can be used or whether you are going to put form over substance and allow this Section 35002.5, the strip annexation Section, to be abused, as many people say it has been abused, because of the fact that you are putting the actual technicalities over the substance. I think only lawyers, of which I am one, could think of the idea of going out into the ocean and coming back to annex an area, or of going down the middle of San Diego Bay. Normally you wouldn't think of doing that.

Another question which I submit to you as important is what, if any, remedy is there to people in such a situation if, in fact, the Attorney General refuses, as he did in the case down here, to allow a suit in quo warranto. In the case in Santa Barbara there is a suit in quo warranto apparently. In the situation here the Attorney General ruled that it was not in the public interest. So, is there another remedy that people objecting to this can pursue in a court of law?

Another question that I think your attention should be directed to is how does a person attack a one, a two, or three-step annexation? It's easy to see how you attach an annexation which comes down and picks you up because you've got your chance there, but how do you attack an annexation which comes next door? You are not a voter in that area; you've got no standing to sue; it comes down and picks you up because you've got your chance there. But how do you attack an annexation which comes next door? You are not a voter in

that area; you've got no standing to sue; it comes down and picks up next door and then some time later comes over and picks you up. At that time you want to object to the whole proceedings but is there any such provision? Can you say there is a common scheme? I don't know! But it's a question of just what provision there is in the law to attack a one, a two, or three-step annexation. I think the courts in a case have gone behind the steps and have said this is one common scheme. That's a question.

BRADLEY: What you mean by that is an anticipation of possible advantage or difficulty.

BEAR: Yes. To be practical, the first annexation in this particular case was merely the water strip down the middle of San Diego Bay. Who could protest that down in the South Bay?

BRADLEY: How far does that strip go - all the way down to the Mexican Border?

BEAR: That's right, all the way down to the land this side of the Mexican Border. Here is a map which points this out. (Map on file in Sacramento.)

As I said, I don't want to argue the merits of the suit at all but just point out certain facts of how this happened and to bring to you certain problems that I have encountered as a lawyer representing some of the people down there in the South Bay.

There is another question which perhaps should be considered and that is what the effect of allowing such a water strip would be on the political re-districting, and whether you want to have laws which say you can violate a city's boundary in making up



Assembly and Congressional Districts. That's just another question that I would like to raise.

Today was the first that I have heard of this Santa Barbara case that went out into the ocean. It's my understanding that Coronado was once a part of the City of San Diego and there of course was no land connection there. There was a famous case of a municipal government down in Florida where one town had attempted to go across Biscayne Bay and wound up in the Supreme Court, as these cases may well wind up, and the Supreme Court ruled that under Florida law there was no contiguity when there was in fact no access, no causeway, no way of getting from one area to the other. These are weighty questions. The annexation in this case has gone through; it's in effect; the Attorney General has denied the particular cause that I represent. I don't want to mislead the Committee in any way with regard to this but just to point out the situation that has happened here and which was referred to earlier as the attempts of certain individuals to fight progress, so to speak. It is in existence; it is an important thing and it drastically affects not only your annexation laws but your incorporation laws, if you are going to clarify that Section concerning strip annexations, or strip incorporations, as to just what you are going to require and what was the full legislative intent in the matter.

BRADLEY: I think Mr. Holmes has a question.

HOLMES: With reference to the Santa Barbara annexation, the sanctuary was set up by law for the purpose of eliminating the drilling of off-shore oil, and since it was already set up and

described by law, and since the City of Santa Barbara wanted to annex the airport, they used the sanctuary which was already described as a means of having contiguity to the City of Santa Barbara and the airport. Secondly, I think it is the hope of the regents of Santa Barbara in a future date to annex the University of California at Santa Barbara on to this same strip so they still can be called the University of California, Santa Barbara, rather than the University of California, Lolita. Therefore, the reason that the Attorney General did not file any complaint on this South Bay Annexation probably is that there is no public interest, inasmuch as the public of the whole State is concerned. But in Santa Barbara's case, the sanctuary that has been set aside undoubtedly holds one of the largest oil pools that has ever been discovered; so it was the Attorney General's opinion that if Santa Barbara annexed the sanctuary, it would unnecessarily delay the State in breaking the sanctuary in order to lease lands for oil drilling off-shore. Now then, the advantage to the City to have the sanctuary is this that they could zone against the drilling of oil and the State could not break it. So you see, it has a three-fold purpose, as far as the annexation is concerned, in the case of the City of Santa Barbara, and that is the reason why they used the sanctuary. I just thought I would bring that out to you and show you the difference of the two water sanctuaries and probably the difference as to why the Attorney General did not file in quo warranto in this one where they did in Santa Barbara. If there had been known oil deposits underneath there, you can rest assured with the pressures of the oil companies that there would have been a quo warranto.

BEAR: There are definite differences between the case and certain similarities. In this case the stated purpose of the ordinance annexing this water strip which had been released by the City of Coronado was to provide for uniform navigation in San Diego Bay by annexation of a strip 300 feet wide. There was no connection at that time to land. In your case I assume there was connection to water and land--all in one step. In this case there were three steps.

HOLMES: I would like to comment on one other point that you brought up about Sec. 35115-16 as to the intent of the Legislature. Let's say that just within the period of fifty days a petition is filed, for example, on the 30th day, and it was found to be inadequate; I think that it was the intention of the Legislature that ten days additional be allowed from the time of the filing and the finding of inadequacy. I don't believe it was the intent that it should go the full fifty days and then ten additional days. I think that they meant ten days from the finding of the inadequacy in order to allow the soliciting of additional names.

BEAR: That raises the question squarely if the petition is presented on the 45th day and is declared insufficient on the 50th or the 51st day, then do they have an additional ten days which would carry them past the fiftieth day?

HOLMES: It would have to be within the original 50 days for if it is the 51st day, then that time would be overruled as taking too long. Any other period would have to be set up for another 50 days. That's the question.

BRADLEY: I think that's probably a very pertinent question and a decision is pending.

BEAR: Yes, we don't want to get into that too much but just point out certain sections where there apparently is enough dispute to get into court on.

BRADLEY: Thank you very much, Mr. Bear. Mr. Preston, do you wish to make your presentation now?

TOM PRESTON (Citizen): My name is Tom Preston and I am a citizen of the annexed area that Mr. Bear has reference to. I would like to bring out a couple of other things. It is, I believe, the general opinion that islands and corridors are creating a sinister shadow all over the State. I wish to say that the annexation on that map is possibly the most sinister of any annexation that has ever occurred in this nation. If a few men, or a half dozen or so, can go in with a petition and have an election called for the purpose of annexation, then I would advise that no one jump into anything on short notice. Earlier someone here said they wanted to shorten the time given so the big fellow could run over the little one all the more. I am one of the amateurs the Hon. Sheridan Hegland mentioned a while ago. It is a matter of the big one eating the little one, and the little one has to use the meager finances that he has to even enforce the laws.

This annexation annexed a group of people under false pretenses. There was a vote and it carried by a very small majority but it will be brought out that the laws that are on the statutes were not complied with. In the first annexation step of that water, first they must have a legislative grant, and around the turn of the century the City of San Diego got a legislative grant up to that



black line on the map which starts up the Bay, but the Legislature is also restricted to, I believe, a two-mile limitation, and they knew this, so for over two miles they didn't even take the formality of applying because they knew it couldn't be granted anyhow - so they annexed it. Therefore, the Legislature was never consulted for a legislative grant in the first place for the tidelands.

I personally would like to see some legislation to relieve some of the sins that have been caused by these strips and islands. If a few people can come in and get a petition for any fee, the same number of people should be allowed to get another petition and call another vote, but under the law now, the vote must be called and the whole city must vote on it. Therefore, I suggest that the same area be allowed to de-annex and vote on it. Now it is my opinion that legislation is to keep the people happy. If in these annexations they can get a protest of 51 percent, then of course the annexation is called off. Well, it might be better if it was required that 51 percent of the number of owners be on a petition to legalize annexation. Then you wouldn't have any further litigation; you would have happy people. That is a suggestion you might think about. When they went to annex these things, if they had to have 51 percent of the number of the owners in the area sign, you wouldn't have all this foolishness at all.

There certainly should be a law passed where a reasonable amount of the percentage of the proposed annexation should be contiguous to the city and not any such subterfuge as this. Now I have possibly a three hour speech that I have to make in five minutes. As we know, under the laws land is defined and water is defined, and

the annexation law states "land". That of course didn't mean anything to the City of San Diego. There are laws on the statute now that invalidate this thing but we couldn't fight an annexation that didn't affect us until two more annexations were added to the end of that thing. We couldn't go up there and do that since it didn't affect us. Now the last step is the one that affects us and the fact is that you've never seen so many unhappy people in one area in your life. We would love to have another vote, or at least we want a day in court, and up to now we have been prevented the right of even a day in court. They filed demurrers and are there sustaining them; we are not even considered. Well, we are going to keep this up until we have a day in court and I am sure that in the end justice will prevail and it won't be based on "cash register" justice. Believe me, I am very well versed on this thing and we have been done an injustice, but I am sure that the State Legislature will do something about it. Thank you.

BRADLEY: Thank you very much, Mr. Preston.

Our last witness is Mr. John Hagen.

JOHN W. HAGEN, Superintendent, Las Virgenes School, 4029 Las Virgenes Road, Calabasas, California: I represent the Las Virgenes School Board, the people of the Las Virgenes District, and I also represent the Las Virgenes Municipal Water District. The people of the area which is located in the extreme west end of San Fernando Valley on the southern border of Ventura County, and which is approximately 87 miles in area, are alarmed about the annexations that they are constantly faced with. The annexations are piecemeal and they

are large scale. Right now they cover thousands of acres, ranging from 643 acres to very tiny parcels. One of these annexations is 7,200 feet long and about 200 feet wide. This particular annexation, if it was accepted, would make coterminous possible islands, and this finger going up into the district runs right through the heart of our assessed wealth, and the islands that it would connect could start some kind of a brush fire that would completely ruin the school's income.

It also tears apart the assessed valuation and the planning of the municipal water district, which makes the district's campaign for water a real problem. Recently we nearly lost the Warner Ranch which is three thousand two hundred plus acres. However, the syndicate that bought the ranch from the Warner Brothers Studios withdrew their petition. I said these citizens were alarmed and I think that they have a real right to be alarmed. I've gone through some of the coordinating meetings of the City Planning Commission and one of the meetings might go like this, "Today, gentlemen, we have 13 annexations before us" and before you can wink an eye, somebody will move and second accepting all the annexations. As a matter of fact, I was a little worried because I was opposing one of them one day and I didn't even think I could get to say anything.

HOLMES: Annexed by what city?

HAGEN: Los Angeles City.

Now how does annexation, piecemeal or on a large scale, affect school districts? 1. If you are a small district it changes enrollment, causing in some cases split classes and a weaker instructional program; 2. It takes away assessed wealth which vitally

affects the district financially. 3. It undermines the basic tax structure which critically affects our income. The major part of our income comes from local tax money. 4. It creates a gerrymandered district with an outside district protruding fingers cutting into the vital parts of our area. 5. It defeats all of our projected master planning and near building plans. 6. It causes ridiculous transportation schedules to be set up. 7. Many school districts are augmented with the Los Angeles County School District Reorganization Committee. This committee's findings and recommendations are constantly being altered by piecemeal annexation. 8. In most cases, only the best areas are annexed.

BRADLEY: Could I ask you this question; are these annexations being made under what is commonly called A.B. 1, in which the county school district territory is being exempted, or are the annexations being made to include the annexation of the school district territory into the city annexation?

HAGEN: Well, in the case of Los Angeles City, when they annex a piece of property they do it for all purposes.

BRADLEY: In other words, they attempt to take the school district with it?

HAGEN: Yes, that's correct. Now if we were a district with no future planning, the annexation might be a good thing. I've seen some pretty poor districts, and some pretty poor planning, but that isn't true of our district. We have projected planning and I am going to submit a projected master plan for our school district to the committee. (On file in Sacramento.) This master plan predicts,



along with those of the Planning Commission in Los Angeles County and City, an estimated population in my particular area in twenty years of between 160 to 240 thousand people with an average daily attendance in the schools which would number approximately 40,500 students. The people of the district want a unified district; they are planning arduously to have a close knit community; we are surrounded by mountains; the community is a union elementary school district made up of communities that like to be together. They are planning their own water company and they have it already under way. It's an established thing. They are merged with Colagas and Oxnard. Oxnard just recently started drawing salt in their wells so they are interested in this water company and there is \$70,000,000 of assessed wealth in it, which is an important thing in this Las Virgenes Municipal Water District. We want our planning to materialize; we don't want to see it going down the drain. The people, as I say, are concerned - they are extra concerned.

If you happen to read any of the Los Angeles papers, you will notice news stories, of which I have the clippings, to substantiate this if you are interested, concerning cities like Bell, Maywood, Huntington Park, Vernon, San Fernando, and many others which are trying to get out of the city. It took Torrance twenty years to get out of the city. The old story is, why don't you join the city and then later on if you don't like it you can get out. Well, you can't get out.

The people of my area are perplexed. In very complicated things such as these annexations and also in complicated matters

such as in school district reorganization, the average layman cannot understand what you are talking about. They are very local autonomy minded; they love their own government and they love their school, and they just hate to give up one square foot of it. They say, "What are we here for? Why don't we have an election? We will show them what we want to do", and then in the meantime these annexations are tearing them to pieces. If something isn't done, they are not even going to get a chance to vote for a dump.

We sincerely hope that you gentlemen consider an area such as ours, our school district and also the water company, when you make your representations for new legislation. I thank you very much for allowing me to speak. Now I would like to submit this proposed study of our master plan and also a map of what the effects are on our school districts. (On file in Sacramento.)

BRADLEY: Mr. Holmes, do you have a question?

HOLMES: In your particular case, the people have the right to vote, don't they?

HAGEN: Well, we have had inhabited and uninhabited annexations. We lost great big chunks of land that were uninhabited, Plat Ranch, the Crystal Ranch, and the Elliott Ranch ...

HOLMES: It's the uninhabited territory that you are worried about more than the inhabited territory, is that right?

HAGEN: If we had a chance to vote, we would give them the business but we don't have a chance to vote. People who move in there are speculating, and when they move in there they cry that they need water. The areas are real beautiful areas, rolling oak tree land,

movie set country, and they move in there to make some money. In some cases there are people who have not lived in the district and they go to these county coordinating board meetings and shout about being citizens of the County for fifty years, but when you question them they haven't lived in the area that they are trying to get annexed for a year.

HOLMES: You are afraid that there will be enough of those people in there to offset the number of people who would vote against it?

HAGEN: Yes, sir, and the pressure is hot.

BRADLEY: Thank you very much.

HAGEN: Do you want me to say something on that other matter?

BRADLEY: Mr. Curtin has a question.

CURTIN: Yes. On that matter that we were discussing between ourselves and which was brought up at the hearing earlier today concerning the County Counsel's opinion on school districts, would you repeat what you mentioned to me?

HAGEN: At that time I was teaching the 7th and 8th grade and I was also Superintendent of a 200 square mile school district, and along with that I had to contend with the building program and an annexation on top of that. Therefore, I may not be up on annexation laws and I don't pretend to know too much about it, but I don't particularly agree with the person who said that the district which is going out of the school district and being annexed to another district is not liable for the bonding. I remember a specific issue when

the time of voting was so vital that the people who wanted to go to this other district, and incidentally, there were an overwhelming majority who wanted to go, which the election results indicated, were considering not going through with the election and staying just where they were because the date set for a bond election in the high school district that they were trying to get out of was before the annexation date. We were told that if bonds were passed before the annexation election the people would not be merely liable for the bonds that had accrued previously but for the new bonds for the new highschool as well, which they would not use even though they were annexing to another district. Therefore, this leaves me to believe that this statement isn't true.

BRADLEY: I think Mr. Geddes was saying that if a territory was within a district at the time an election is held, and a bond issue is passed and an indebtedness is created, they aren't going to get out of their obligation to meet the bond issue.

HAGEN: I don't see how they could either.

GEDDES: That is generally correct. I would point out that we have in some instances changed the law. I know when Arcadia, which is an incorporated city separated from the Arcadia, Monrovia, Duarte Union High School District, wanted their own High School so badly that they agreed and had legislation passed to make it possible. They agreed that they would pay their share of the indebtedness if they would have the right to build their own high school after the withdrawal, so, as Mr. Hagen set forth this morning, we have about four different alternatives. However, I think the problem that is posed



is one that has come before this committee, and certainly before the Education Committee, time after time, and if I can rephrase in my own language what I believe has been brought before us, is, that the school districts affected have probably the least to say as to whether or not there will be an annexation or incorporation than any one else in the picture, and yet these people are carrying the burden that they have voted and which has been imposed on them. Certainly there is always someone owing for the bond, and as to who takes over and who is excused, we would have to research the Education Code. But I know there is a problem in that particular area and in any other area where there is this mixture of inhabited and uninhabited territory, and where some city reaches out to pick off certain spots.

BRADLEY: Ladies and gentlemen, we went a little over our time but we are going to have to stop for today and we will now recess until 9:30 tomorrow morning.